

**PLANNING COMMISSION
PAYNESVILLE CITY HALL COUNCIL CHAMBERS
JUNE 20, 2016
6:00 P.M.**

AGENDA

- I. CALL TO ORDER
- II. CONSENT AGENDA
 - A. Minutes (page 1)
- III. NEW BUSINESS
 - A. Variance Request - Casey's Retail Company (page 3)
 - B. New Law – Temporary Family Health Care Dwellings (page 11)
- IV. OLD BUSINESS
 - A. Zoning Ordinance Amendments – Codification (page 28) – ***Please bring your Zoning Amendment document with you to the meeting that you received at the last meeting.***
- V. INFORMATIONAL
 - A. Building Inspector Report (page 34)
- VI. ADJOURN

Please contact Renee Eckerly at 320-243-3714 ext. 227 or at renee@paynesvillemn.com if you can't attend the meeting.

Members: Randy Christman, Darlene Loven, Ron Mehr, Bob McDaniel, and Neil Herzberg. Advisory Members: Renee Eckerly, City Administrator and Brad Mehlhop, Building Official

This agenda has been prepared to provide information regarding an upcoming meeting of the Paynesville Planning Commission. This document does not claim to be complete and is subject to change.

BARRIER FREE: All Paynesville Planning Commission meetings are accessible to the handicapped. Attempts will be made to accommodate any other individual need for special services. Please contact City Hall (320) 243-3714 early, so necessary arrangements can be made.

REQUEST FOR COMMITTEE/COUNCIL ACTION

COMMITTEE/COUNCIL NAME: Planning Commission

Committee/Council Meeting Date: June 20, 2016

Agenda Section: Consent

Originating Department: Administration

Item Number: II - A

ITEM DESCRIPTION: Minutes

Prepared by: Staff

COMMENTS:

Please review the minutes from the June 6, 2016 Planning Commission meeting.

ADMINISTRATOR COMMENTS:

COMMITTEE/COUNCIL ACTION:

Motion to approve the minutes from the June 6, 2016 Planning Commission meeting

**MINUTES
PLANNING COMMISSION**

JUNE 6, 2016

Chairman Ron Mehr called the meeting to order at 6:00 p.m. Other members present were Darlene Loven, Randy Christman, and Neil Herzberg. Bob McDaniel was absent. Also present was Renee Eckerly, City Administrator.

Mehr welcomed new Commission member Randy Christman.

**Motion was made by Herzberg to approve the minutes of the May 2, 2016
Planning Commission Meeting. Seconded by Christman and unanimously carried.**

JULY PLANNING COMMISSION MEETING(S)

**Motion was made by Loven to only have one meeting in July on July 18, 2016 at
6:00 p.m. Seconded by Herzberg and unanimously carried.**

ZONING ORDINANCE CODIFICATION

Eckerly presented the changes being proposed for the Zoning Ordinance Codification.

**Motion was made by Herzberg to set the Zoning Ordinance amendment public
hearing for July 18, 2016 at 6:05 p.m. Seconded by Loven and unanimously carried.**

BUILDING INSPECTOR REPORT

The Building Permit Report was presented by Eckerly. Mehlhop was at class getting ready to take the Building Inspector test.

NEXT MEETING

The next meeting will be June 20, 2016 at 6:00 p.m.

There being no further business, the meeting was adjourned at 6:10 p.m.

REQUEST FOR COMMITTEE/COUNCIL ACTION

COMMITTEE/COUNCIL NAME: Planning Commission

Committee/Council Meeting Date: June 20, 2016

Agenda Section: New Business

Originating Department: Administration

Item Number: III - A

ITEM DESCRIPTION: Variance Request - Casey's Retail Company

Prepared by: Staff

COMMENTS:

The City of Paynesville received a Variance Application from Casey's Retail Company to allow the construction of a 16 foot x 36 foot building addition to expand the existing structure, which structure requires a Variance from the rear yard setback requirement of Chapter 11, Section 11.41, Subd. 5, which requires a rear yard setback of 20 feet. The proposed addition to the structure would match the existing setback being two (2) feet from the rear property line, thereby requiring a Variance of 18 feet from the strict requirements of Chapter 11, Section 11.41, Subd. 5A.

1. The property in question is located at 222 Business 23 E., Paynesville, MN 56362.
2. The property in question is currently zoned "C-2" – Highway Commercial District
3. The property in question is Tax Parcel Nos. 70.38851.0000 and 70.38937.0000, which parcels are legally described as follows, to-wit:
Lots Eleven (11) and Twelve (12) in Block Two (2) of Gilbert's New Addition to Paynesville, according to the plat and survey thereof now on file and of record in the Office of the County Recorder, in and for Stearns County, Minnesota.
4. The owner of the property described above is Casey's Retail Company.
5. An appropriate Variance application has been filed and the required fee has been paid.

The structure shall, in all other respects, comply with the requirements of Chapter 11 of the City Code, and specifically the requirements of Chapter 11, Section 11.10, Subd. 4d, requiring that commercial and industrial districts adjacent to residential districts and not divided by streets, there must be a screening fence not to exceed eight (8) feet in height and not to be less than six (6) feet in height, screening 80% of the area from the adjacent residential district.

ADMINISTRATOR COMMENTS:

Staff has viewed the site and believes Casey's has built over the lot lines and recommends that Casey's combine the lots. Casey's has been contacted and staff is waiting on them to confirm the legal description, address and to reply to combining the lots. To date no response has been received.

COMMITTEE/COUNCIL ACTION:

Motion to approve the Casey's Report & Recommendation Of Planning Commission On Application For Variance and recommend such to the City Council.

CITY OF PAYNESVILLE ~ VARIANCE APPLICATION

221 Washburne Ave. ~ Paynesville, MN 56362
Phone: 320-243-3714 ~ Fax: 320-243-3713

List All Property Owners: Casey's Retail Company
Contact Person: Ryan Stevens Email Address: ryan.stevens@caseys.com
Mailing Address: 222 Business 23 E, Paynesville, MN 56362
Telephone No.: 320-243-3152 Parcel No.:
Property Address: 222 Business 23 E, Paynesville, MN 56362
Legal Description: Lot: 11 + 12 Block: 2 Addition: Gillmont's New Addition to Paynesville.

ZONE: C-1 Central Business District Highway Comm.

Application Fee: \$250.00
(non-refundable) These are the fees incurred per document: Advertising \$48.00 (average), Recording \$46.00 (actual), Postage \$33.00 (average), Legal \$123.00 (average), totaling \$250.00.

EXISTING USE OF PROPERTY: existing convenience store

IS THE VARIANCE NEEDED TO REPLACE AN EXISTING STRUCTURE OR ADD AN ADDITIONAL STRUCTURE? 16' x 36' Building addition

IF REPLACING, IS THE EXISTING STRUCTURE NON-CONFORMING? N/A

DESCRIPTION OF REQUEST: (use separate sheet if needed)
This proposed addition to the exiting Casey's General Store will match the existing building non-compliant setback of 2'-0" from the property line. This application is to request an 18' variance for the proposed 16' addition to the existing Casey's General Store due to the required 20'-0" setback requirement at the south property line. The 6'-0" privacy fence that runs along the south property line will remain and be extended to the north along the east property line utilizing a fence that provides at least 80% privacy. The new fence at the east property line will be 1'-2" from the property line.

DRAWING OF PROPOSED VARIANCE: (use separate sheet)

- Application Must include:
A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets, and private right of ways bordering and adjacent to the site, the use and location of all adjacent property.
The specific feature or features of the proposed use, construction, or development that requires a variance.
Specific provisions of Ordinance from which a variance is sought and the precise variance there from being sought.
Statement of characteristics of the property that prevent compliance with the provisions of the Ordinance.
Legal description from abstract.
Any written or graphic data required by the City Administrator.

All Property Owners Must Sign This Application
Ryan Stevens Agent
Date 05/23/2016

For office use only:
Application Fee: \$250.00 (non-refundable)
For office use only: Cash
Check No. 2777170 Date Paid 6/13/16
Present To Planning Commission Date: 6/20/16 6pm
Board of Adjustment Set Public Hearing Date: 6.27.16 6pm
Board of Adjustment Public Hearing Date: 7.25.16
Board of Adjustment Makes Determination Date: 7.25.16

PLANNING COMMISSION ACTION:
Recommended to Board of Adjustment Approved Denied
BOARD OF ADJUSTMENT ACTION: Approved Denied
Date:
Date:
Date Received In Office: (Stamp) JUN 13 2016

Handwritten mark '4'

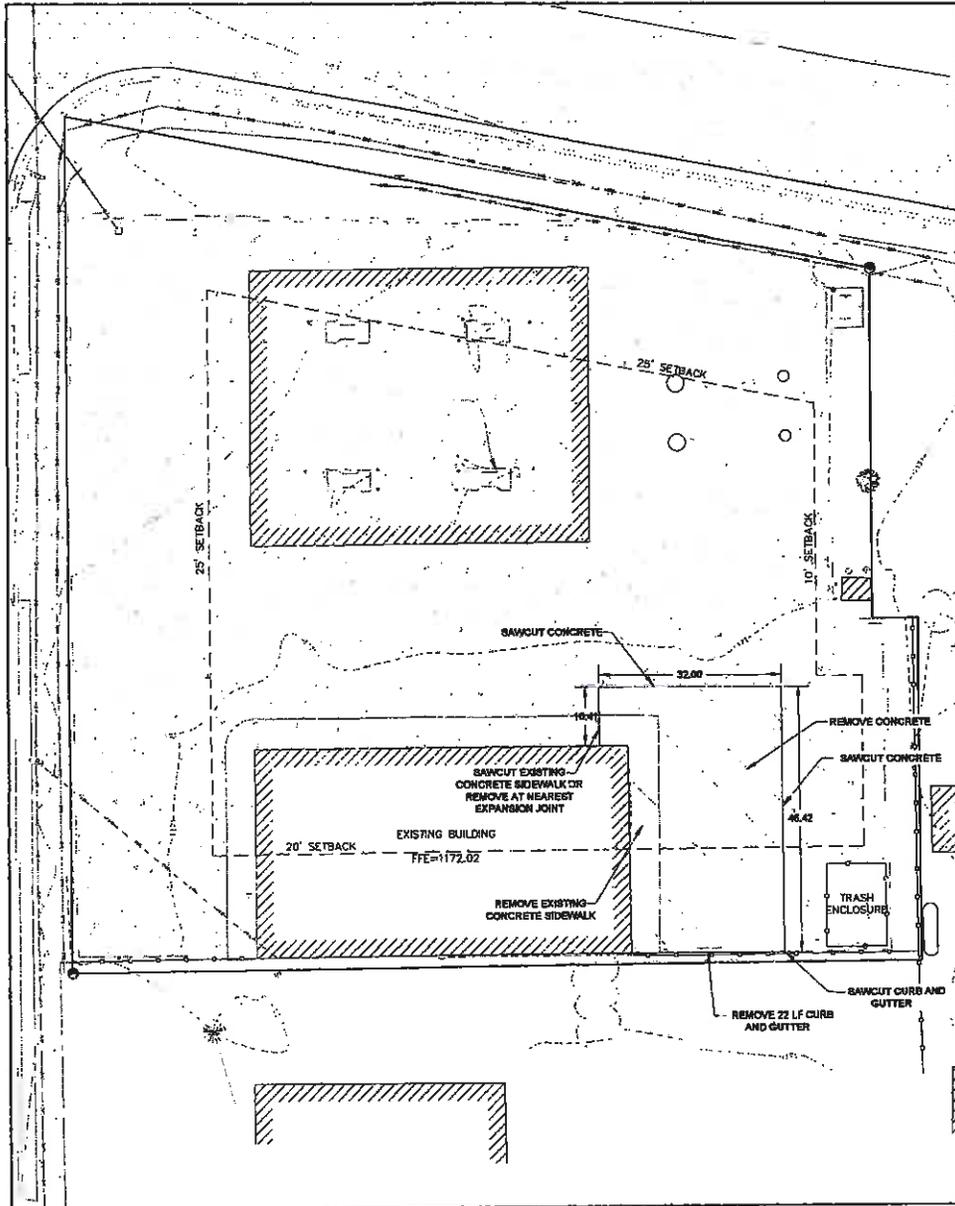
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CITY OF PAYNESVILLE

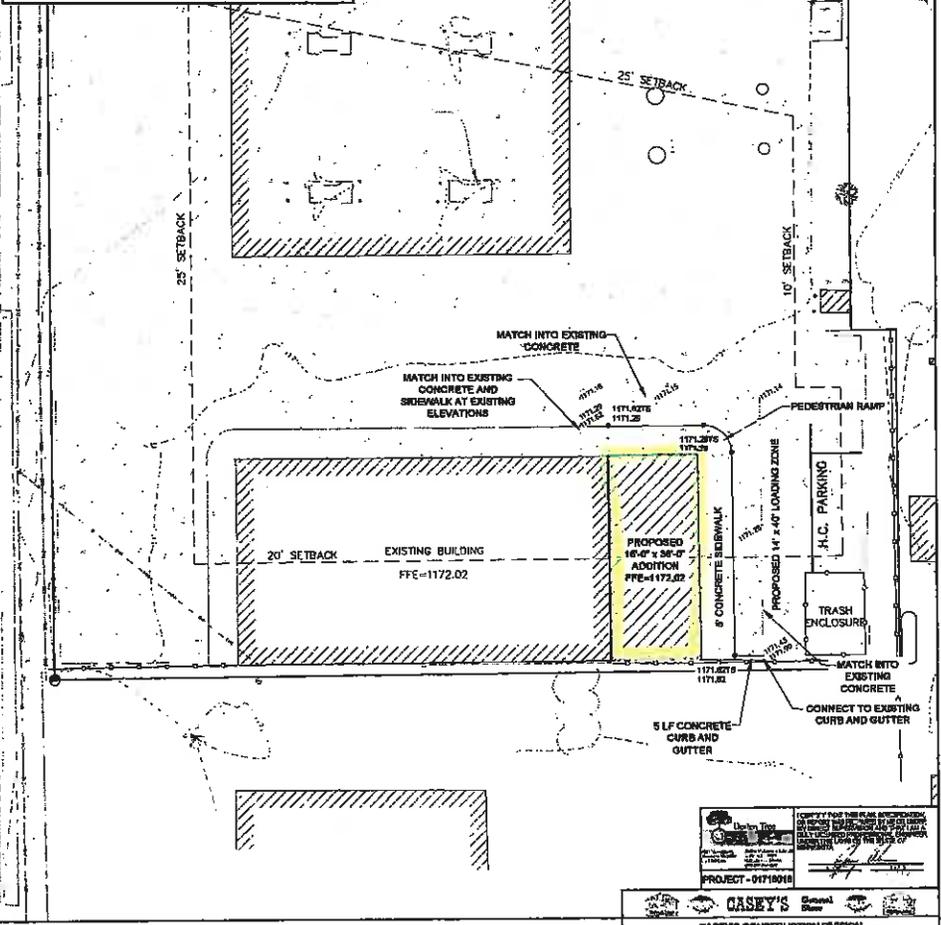
RECH: 00046131 6/13/2016 10:05-AM
OPER: FRONT TERM: 001
REF#: 2777170

TRAN: 10.0100 VARIANCE FEE
casey's variance
VARIANCE FEES 250.00CR

TENDERED: 250.00 CHECK
APPLIED: 250.00-
CHANGE: 0.00



- GENERAL NOTES:**
1. CONTRACTOR SHALL FIELD VERIFY LOCATION AND ELEVATIONS OF ALL EXISTING UNDERGROUND UTILITIES.
 2. CONTRACTOR SHALL FIELD VERIFY ALL BUILDING DIMENSIONS PRIOR TO ANY CONSTRUCTION.
 3. CONTRACTOR SHALL FIELD VERIFY THICKNESS OF EXISTING BITUMINOUS PAVEMENT AND SUBGRADE AND MATCH EXISTING SECTIONS.
 4. CONTRACTOR SHALL COORDINATE WITH PLUMBING AND MECHANICAL FOR REMOVAL AND RELOCATION OF SANITARY SEWER SERVICES AND GAS/GEAR INTERSECTION.
 5. RETAINING WALL SHALL BE SHOWED AND PROTECTED THROUGHOUT THE DURATION OF CONSTRUCTION.
 6. PROVIDE BILT FENCE PERIMETER CONTROL ON ALL AREAS DOWN GRADIENT OF CONSTRUCTION ACTIVITY.
 7. HAILEY PROTECTION SHALL BE PROVIDED ON ALL CATCH BASINS AND INLETS DOWN GRADIENT OF CONSTRUCTION ACTIVITY, SHOWN OR NOT SHOWN.
 8. NO VEHICLE TRUCKING IS PERMITTED. STREETS SHALL BE CLEANED AND SWEEP IMMEDIATELY FOLLOWING OR PRIOR TO OCCUR AND BEFORE OTHER LEFT ROLE FOR MESSAGE AND HOLDING.



Removals
1" = 10'

BENCHMARK INFORMATION
BENCHMARK #1: USE FINISHED FLOOR ELEVATION OF EXISTING BUILDING. ELEV: 1172.02

Site/Grading
1" = 10'

PROJECT - 01710018

CASEY'S CONSTRUCTION DIVISION
One Conover Road, P.O. Box 207, Arroyo, CA 92008-0207

PAYNESVILLE, MN
222 BUSINESS 23 E.
16' 10" STYLE ADDRESS MODEL

REMOVALS, SITE & GRADING PLAN
C2.0

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**REPORT & RECOMMENDATION OF PLANNING COMMISSION
ON APPLICATION FOR VARIANCE**

WHEREAS, the City Administrator has received from Casey's Retail Company a Variance Application to allow the construction of a 16 foot x 36 foot building addition to expand the existing structure, which structure requires a Variance from the rear yard setback requirement of Chapter 11, Section 11.41, Subd. 5, which requires a rear yard setback of 20 feet. The proposed addition to the structure would match the existing setback being two (2) feet from the rear property line, thereby requiring a Variance of 18 feet from the strict requirements of Chapter 11, Section 11.41, Subd. 5A; and

WHEREAS, Casey's Retail Company is the owner of the property involved in this project; and

WHEREAS, the property at issue is more particularly described as Parcel Nos. 70.38851.0000 and 70.38937.0000, which parcels are legally described as follows, to-wit:

Lots Eleven (11) and Twelve (12) in Block Two (2) of Gilbert's New Addition to Paynesville, according to the plat and survey thereof now on file and of record in the Office of the County Recorder, in and for Stearns County, Minnesota; and

WHEREAS, the Planning Commission believes that the owner's use of the property as proposed would be:

- a) _____ Unreasonable; or
- b) _____ Reasonable

because it ties into the improvements already existing on the property; and

WHEREAS, the Planning Commission believes that the landowner's problem with the property requiring the Variance is:

- a) _____ Due to circumstances unique to the property and not caused by the landowner;
- b) _____ Is not due to circumstances which are unique to the property or was caused by the landowner;

because _____; and

WHEREAS, The Planning Commission finds that the Variance, if granted:

- a) _____ Will not alter the essential character of the locality; or
- b) _____ Will alter the essential character of the locality;

because _____; and

WHEREAS, the Planning Commission finds that the Variance, if granted:

- a) _____ Will be in harmony with the general purpose and intent of the zoning ordinance and the Comprehensive Plan; or
- b) _____ Will not be in harmony with the general purpose and intent of the zoning ordinance and the Comprehensive Plan;

because _____.

THEREFORE, the Planning Commission recommends that the request for Variance be:

- a) _____ Granted; or
- b) _____ Denied.

PAYNESVILLE PLANNING COMMISSION

By: _____
Ron Mehr, Chairperson

ATTEST:

Renee Eckerly, City Administrator

REQUEST FOR COMMITTEE/COUNCIL ACTION

COMMITTEE/COUNCIL NAME: Planning Commission

Committee/Council Meeting Date: June 20, 2016

Agenda Section: New Business

Originating Department: Administration

Item Number: III - B

ITEM DESCRIPTION: New Law - Temporary Family Health Care Dwellings

Prepared by: Staff

COMMENTS:

Renee Eckerly will give you a verbal report. Please review the attached new law regarding Temporary Family Health Care Dwellings. Discuss if this is something the City of Paynesville should adopt or opt out of. Staff has reviewed this and recommends opting out at this time. Please see the draft ordinance for such. If the Commission agrees on opting out this could be included in the Zoning Ordinance Amendment Public Hearing on July 18, 2016.

ADMINISTRATOR COMMENTS:

COMMITTEE/COUNCIL ACTION:

Motion to _____.



Temporary Family Health Care Dwellings of 2016 Allowing Temporary Structures – What it means for Cities

Introduction:

On May 12, 2016, Governor Dayton signed, into law, a bill creating a new process for landowners to place mobile residential dwellings on their property to serve as a temporary family health care dwelling.¹ Community desire to provide transitional housing for those with mental or physical impairments and the increased need for short term care for aging family members served as the catalysts behind the legislature taking on this initiative. The resulting legislation sets forth a short term care alternative for a “mentally or physically impaired person”, by allowing them to stay in a “temporary dwelling” on a relative’s or caregiver’s property.²

Where can I read the new law?

Until the state statutes are revised to include bills passed this session, cities can find this new bill at [2016 Laws, Chapter 111](#).

Does the law require cities to follow and implement the new temporary family health care dwelling law?

Yes, unless a city opts out of the new law or currently allows temporary family health care dwellings as a permitted use.

Considerations for cities regarding the opt-out?

These new temporary dwellings address an emerging community need to provide more convenient temporary care. Cities may want to consider the below when analyzing whether or not to opt out:

- The new law alters a city’s level of zoning authority for these types of structures.
- While the city’s zoning ordinances for accessories or recreational vehicles do not apply, these structures still must comply with setback requirements.
- A city’s zoning and other ordinances, other than its accessory use or recreational vehicle ordinances, still apply to these structures. Because conflicts may arise between the statute and a city’s local ordinances, cities should confer with their city attorneys to analyze their current ordinances in light of the new law.
- Although not necessarily a legal issue for the city, it seems worth mentioning that the permit process does not have the individual with the physical or mental impairment or that

¹ [2016 Laws, Chapter 111](#).

² Some cities asked if other states have adopted this type of law. The only states that have a somewhat similar statute at the time of publication of this FAQ are North Carolina and Virginia. It is worth noting that some states have adopted Accessory Dwelling Unit (ADU) statutes to allow granny flats, however, these ADU statutes differ from Minnesota’s Temporary Health Care Dwelling law.

individual's power of attorney sign the permit application or a consent to release his or her data.

- The application's data requirements may result in the city possessing and maintaining nonpublic data governed by the Minnesota Government Data Practices Act.
- The new law sets forth a permitting system for both cities and counties³. Cities should consider whether there is an interplay between these two statutes.

Do cities need to do anything to have the new law apply in their city?

No, the law goes into effect September 1, 2016 and automatically applies to all cities that do not opt out or don't already allow temporary family health care dwellings as a permitted use under their local ordinances. By September 1, 2016, however, cities will need to be prepared to accept applications, must have determined a permit fee amount⁴ (if the city wants to have an amount different than the law's default amount), and must be ready to process the permits in accordance with the short timeline required by the law.

What if a city already allows a temporary family health care dwelling as a permitted use?

If the city already has designated temporary family health care dwellings as a permitted use, then the law does not apply and the city follows its own ordinance. The city should consult its city attorney for any uncertainty about whether structures currently permitted under existing ordinances qualify as temporary family health care dwellings.

What process should the city follow if it chooses to opt out of this statute?

Cities that wish to opt out of this law must pass an ordinance to do so. The statute does not provide clear guidance on how to treat this opt-out ordinance. However, since the new law adds section 462.3593 to the land use planning act (Minn. Stat. ch. 462), arguably, it may represent the adoption or an amendment of a zoning ordinance, triggering the requirements of Minn. Stat. § 462.357, subd. 2-4, including a public hearing with 10-day published notice. Therefore, cities may want to err on the side of caution and treat the opt-out ordinance as a zoning provision.⁵

Does the League have a model ordinance for opting out of this program?

Yes. Link to opt out ordinance here: [Temporary Family Health Care Dwellings Ordinance](#)

Can cities partially opt out of the temporary family health care dwelling law?

³ See Minn. Stat. §394.307

⁴ Cities do have flexibility as to amounts of the permit fee. The law sets, as a default, a fee of \$100 for the initial permit with a \$50 renewal fee, but authorizes a city to provide otherwise by ordinance.

⁵ For smaller communities without zoning at all, those cities still need to adopt an opt-out ordinance. In those instances, it seems less likely that the opt-out ordinance would equate to zoning. Because of the ambiguity of the statute, cities should consult their city attorneys on how best to approach adoption of the opt-out ordinance for their communities.

Not likely. The opt-out language of the statute allows a city, by ordinance, to opt out of the requirements of the law but makes no reference to opting out of parts of the law. If a city wanted a program different from the one specified in statute, the most conservative approach would be to opt out of the statute, then adopt an ordinance structured in the manner best suited to the city. Since the law does not explicitly provide for a partial opt out, cities wanting to just partially opt out from the statute should consult their city attorney.

Can a city adopt pieces of this program or change the requirements listed in the statute?

Similar to the answer about partially opting out, the law does not specifically authorize a city to alter the statutory requirements or adopt only just pieces of the statute. Several cities have asked if they could add additional criteria, like regulating placement on driveways, specific lot size limits, or anchoring requirements. As mentioned above, if a city wants a program different from the one specified in the statute, the most conservative approach would involve opting out of the statute in its entirety and then adopting an ordinance structured in the manner best suited to the city. Again, a city should consult its city attorney when considering adopting an altered version of the state law.

What is required in an application for a temporary family health care dwelling permit?

The mandatory application requests very specific information including, but not limited to:⁶

- Name, address, and telephone number of the property owner, the resident of the property (if different than the owner), and the primary care giver;
- Name of the mentally or physically impaired person;
- Proof of care from a provider network, including respite care, primary care or remote monitoring;
- Written certification signed by a Minnesota licensed physician, physician assistant or advanced practice registered nurse that the individual with the mental or physical impairment needs assistance performing two or more “instrumental activities of daily life;”⁷
- An executed contract for septic sewer management or other proof of adequate septic sewer management;
- An affidavit that the applicant provided notice to adjacent property owners and residents;
- A general site map showing the location of the temporary dwelling and the other structures on the lot; and
- Compliance with setbacks and maximum floor area requirements of primary structure.

⁶ New Minn. Stat. § 462.3593, subd. 3 sets forth all the application criteria.

⁷ This is a term defined in law at Minn. Stat. § 256B.0659, subd. 1(i) as “activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community.”

The law requires all of the following to sign the application: the primary caregiver, the owner of the property (on which the temporary dwelling will be located) and the resident of the property (if not the same as the property owner). However, neither the physically disabled or mentally impaired individual nor his or her power of attorney signs the application.

Who can host a temporary family health care dwelling?

Placement of a temporary family health care dwelling can only be on the property where a “caregiver” or “relative” resides. The statute defines caregiver as “an individual, 18 years of age or older, who: (1) provides care for a mentally or physically impaired person; and (2) is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring.” The definition of “relative” includes “a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew or niece of the mentally or physically impaired person. Relative also includes half, step and in-law relationships.”

Is this program just for the elderly?

No. The legislature did not include an age requirement for the mentally or physically impaired dweller.⁸

Who can live in a temporary family health care dwelling and for how long?

The permit for a temporary health care dwelling must name the person eligible to reside in the unit. The law requires the person residing in the dwelling to qualify as “mentally or physically impaired,” defined as “a person who is a resident of this state and who requires assistance with two or more instrumental activities of daily living as certified by a physician, a physician assistant, or an advanced practice registered nurse, licenses to practice in this state.” The law specifically limits the time frame for these temporary dwellings permits to 6 months, with a one-time 6 month renewal option. Further, there can be only one dwelling per lot and only one dweller who resides within the temporary dwelling

What structures qualify as temporary family health care dwellings under the new law?

The specific structural requirements set forth in the law preclude using pop up campers on the driveway or the “granny flat” with its own foundation as a temporary structure. Qualifying temporary structures must:

- Primarily be pre-assembled;
- Cannot exceed 300 gross square feet;
- Cannot attach to a permanent foundation;
- Must be universally designed and meet state accessibility standards;

⁸ The law expressly exempts a temporary family health care dwelling from being considered “housing with services establishment”, which, in turn, results in the 55 or older age restriction set forth for “housing with services establishment” not applying.

- Must provide access to water and electrical utilities (by connecting to principal dwelling or by other comparable means⁹);
- Must have compatible standard residential construction exterior materials;
- Must have minimum insulation of R-15;
- Must be portable (as defined by statute);
- Must comply with Minnesota Rules chapter 1360 (prefabricated buildings) or 1361 (industrialized/modular buildings), “and contain an Industrialized Buildings Commission seal and data plate or to American National Standards Institute Code 119.2”¹⁰; and
- Must contain a backflow check valve.¹¹

Does the State Building Code apply to the construction of a temporary family health care dwelling?

Mostly, no. These structures must meet accessibility standards (which are in the State Building Code). The primary types of dwellings proposed fall within the classification of recreational vehicles, to which the State Building Code does not apply. Two other options exist, however, for these types of dwellings. If these structures represent a pre-fabricated home, the federal building code requirements for manufactured homes apply (as stated in Minnesota Rules, Chapter 1360). If these structures are modular homes, on the other hand, they must be constructed consistent with the State Building Code (as stated in Minnesota Rules, Chapter 1361).

What health, safety and welfare requirements does this new law include?

Aside from the construction requirements of the unit, the temporary family health care dwelling must be located in an area on the property where “septic services and emergency vehicles can gain access to the temporary family health care dwelling in a safe and timely manner.”

What local ordinances and zoning apply to a temporary health care dwelling?

The new law states that ordinances related to accessory uses and recreational vehicle storage and parking do not apply to these temporary family health care dwellings. However, unless otherwise provided, setbacks and other local ordinances, charter provisions, and applicable state laws still apply. Because conflicts may arise between the statute and one or more of the city’s other local ordinances, cities should confer with their city attorneys to analyze their current ordinances in light of the new law.

What permit process should cities follow for these permits?

The law creates a new type of expedited permit process. The permit approval process found in Minn. Stat. § 15.99 generally applies; however, the new law shortens the time frame for which the local governmental unit has to make a decision on granting the permit. Due to the time sensitive

⁹ The Legislature did not provide guidance on what represents “other comparable means”.

¹⁰ ANSI Code 119.2 has been superseded by NFPA 1192. For more information, the American National Standards Institute website is located at <https://www.ansi.org/>.

¹¹ New Minn. Stat. § 462.3593, subd. 2 sets forth all the structure criteria.

nature of issuing a temporary dwelling permit, the city has only 15 days (rather than 60 days) (no extension is allowed) to either issue or deny a permit. The new law waives the public hearing requirement and allows the clock to restart if a city deems an application incomplete. If a city deems an application incomplete, the city must provide the applicant written notice, within five business days of receipt of the application, telling the requester what information is missing. For those councils that regularly meet only once a month, the law provides for a 30-day decision.

Can cities collect fees for these permits?

Cities have flexibility as to amounts of the permit fee. The law sets the fee at \$100 for the initial permit with a \$50 renewal fee, unless a city provides otherwise by ordinance

Can cities inspect, enforce and ultimately revoke these permits?

Yes, but only if the permit holder violates the requirements of the law. The statute allows for the city to require the permit holder to provide evidence of compliance and also authorizes the city to inspect the temporary dwelling at times convenient to the caregiver to determine compliance. The permit holder then has sixty (60) days from the date of revocation to remove the temporary family health care dwelling. The law does not address appeals of a revocation.

How should cities handle data it acquires from these permits?

The application data may result in the city possessing and maintaining nonpublic data governed by the Minnesota Government Data Practices Act. To minimize collection of protected health data or other nonpublic data, the city could, for example, request that the required certification of need simply state “that the person who will reside in the temporary family health care dwelling needs assistance with two or more instrumental activities of daily living”, without including in that certification data or information about the specific reasons for the assistance, the types of assistance, the medical conditions or the treatment plans of the person with the mental illness or physical disability. Because of the complexities surrounding nonpublic data, cities should consult their city attorneys when drafting a permit application.

Should the city consult its city attorney?

Yes. As with any new law, to determine the potential impact on cities, the League recommends consulting with your city attorney.

Where can cities get additional information or ask other questions.

For more information, contact Staff Attorney Pamela Whitmore at pwhitmore@lmc.org or LMC General Counsel Tom Grundhoefer at tgrundho@lmc.org. If you prefer calling, you can reach Pamela at 651.281.1224 or Tom at 651.281.1266.

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ORDINANCE NO. _____

CITY OF _____

**AN ORDINANCE OPTING-OUT OF
THE REQUIREMENTS OF
MINNESOTA STATUTES, SECTION 462.3593**

WHEREAS, on May 12, 2016, Governor Dayton signed into law the creation and regulation of temporary family health care dwellings, codified at Minn. Stat. § 462.3593, which permit and regulate temporary family health care dwellings;

WHEREAS, subdivision 9 of Minn. Stat. §462.3593 allows cities to “opt out” of those regulations;

THE CITY COUNCIL OF THE CITY OF _____, ORDAINS as follows:

Section _____. City Code, Section _____ is amended as follows:

OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593:

SECTION _____. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of _____ opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

SECTION _____. This Ordinance shall be effective immediately upon its passage and publication.

ADOPTED this _____ day of _____, 2016, by the City Council of the City of _____.

CITY OF _____

By: _____

ATTEST:

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Focus on New Laws: Temporary Family Health Care Dwellings

Cities and counties must issue permits for a new type of land use under this law, unless they take steps to opt out.
(Published Jun 13, 2016)

Chapter 111 ([Link to: https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=111](https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=111)) creates a new permit and permitting process that local governments must follow to allow a specific type of temporary transitional housing, unless the unit of local government takes official action by passing an ordinance to opt out of that program. Gov. Dayton signed the bill into law on May 12.

While the stated motivation behind passing the new law was to provide transitional housing for seniors, the statute itself does not include an age restriction for use of the structure. Anyone certified with needing assistance with two or more “instrumental activities of daily life” for mental or physical reasons may reside in a qualified temporary dwelling on the property where the “caregiver” or a “relative” resides.

Requirements of the law

The legislation is fairly complex in its requirements for both the permit application and the permit issuance, as well as for its regulations pertaining to compliant structures and eligible uses. Section 1 specifically excludes temporary family health care dwellings from the definition of “housing with services establishment,” exempting these temporary dwellings from the regulations and requirements set forth in Chapter 144D of the Minnesota Statutes.

Section 3 creates a new section in the Minnesota Land Use Planning Act (Minnesota Statutes, chapter 462), applying this new permit process for temporary family health care dwellings to cities. Section 2 of the new law also establishes the program for counties by creating a new section under Chapter 394 of the Minnesota Statutes. Finally, Section 4 of the law establishes Sept. 1, 2016, as the effective date.

What cities need to do

If your city leaders are comfortable with this program, you need to take no action to adopt it. However, by Sept. 1, your city does need to:

Be prepared to accept applications for permits under the new law.

Have an ordinance in place that establishes the permit fee (if the city decides to charge a fee different than the default fee).

Be ready to review and act on a submitted application within the specified timeline.

Specifically, under the new law, most cities have 15 days to grant or deny a submitted application. (Cities that regularly meet only once a month get 30 days to make their decision.) The law expressly waives the public hearing due to the private medical information involved and because of the immediate need for care. The law does not specify an appeal process related to permit decisions.

The permit is good for six months, with the option to renew once for an additional six months. The permit fee is set at \$100, with \$50 for a renewal; however, a city can choose to adopt, by ordinance, a different fee schedule.

If a city already has designated temporary family health care dwellings as a permitted use, this new law does not apply to that city. Likewise, if a city passes an ordinance specifically opting out of this statute, none of the provisions of the law apply to that community.

If your city wants to adopt a program that differs from the one specified in the new law, you should know that the law does not authorize partial adoption or modification of the program. Instead, your city would need to opt out of the entire law and then adopt a different ordinance that meets the city’s needs.

To help cities that would like to opt out of the statute, the League has developed a sample ordinance. The League has also created a frequently asked questions (FAQs) document.

View the sample opt-out ordinance (doc) ([Link to: http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellings.docx](http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellings.docx))

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Get additional guidance from the League's FAQs (pdf) (*Link to:*
<http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellingsfaq.pdf>)

A section-by-section walk-through of the bill also will be included in the *2016 Law Summaries*, which will be available on the League website by the end of June.

Details of the law

If this law applies to your city and you don't plan to opt out, it's important to know the specific details of the law, including its effect on your existing land use controls, the criteria for a qualified temporary family health care dwelling, and the permit application requirements.

Effect on land use controls

Existing local controls related to accessory uses and the parking and storage of recreational vehicles cannot regulate or prevent placement of a unit that qualifies as a temporary family health care dwelling (see section 3, subdivision 2). Other local ordinances and setbacks, as well as applicable state and federal laws, do apply.

Section 3, subdivisions 5 and 6 set forth parameters for inspection, enforcement, and permit revocation. At any time, cities can request proof that the unit remains compliant with the requirements of the law. Cities can arrange an inspection at a reasonable time that is convenient for the caregiver, to verify that the unit is compliant, is occupied, and that the resident is the one named on the permit.

Temporary family health care dwelling criteria

Section 3, subdivision 2 specifically sets the criteria for a structure to be considered a qualified temporary family health care dwelling. These structures must:

Be primarily assembled at a location other than its site of installation.

Be no more than 300 gross square feet.

Not be attached to a permanent foundation.

Be universally designed and meet state-recognized accessibility standards.

Provide access to water and electric utilities, either by connecting to the utilities serving the principal dwelling on the lot or by other comparable means.

Have exterior materials that are compatible in composition, appearance, and durability to the exterior materials used in standard residential construction.

Have a minimum insulation rating of R-15.

Be able to be installed, removed, and transported by a one-ton pickup truck, a truck, or a truck tractor as defined in Minnesota Statutes, section 168.002.

Be built to either Minnesota Rules, chapter 1360 or 1361, and contain an Industrialized Buildings Commission seal and data plate or to American National Standards Institute Code 119.2, which is an industry definition of a recreational vehicle.

Be equipped with a backflow check valve.

Permit application requirements

A caregiver or a relative must submit a permit application to the city signed by the primary caregiver, the owner of the property on which the unit will be placed, and the resident of the property (if the owner does not reside there). The permit application requires a very specific list of information, including:

Applicant information. Name, address, and phone number of the property owner, the property resident (if different from the owner), and the primary caregiver for the qualified inhabitant of the unit.

Resident name. Only one person can reside in a temporary family health care dwelling and it must be the person named in the application.

Health care provider information. Proof of the provider network that will provide the primary care, respite care, or remote patient monitoring service.

Verification of need. Written certification of the need for assistance with two or more instrumental daily activities from a physician, physician’s assistant, or advanced practice registered nurse licensed to practice in Minnesota.

Septic service. An executed contract for septic service or management.

Neighbor notice. An affidavit that all adjacent property owners and residents have received notification of the application.

Site map. A general site map to show the location of existing structures and the proposed placement of the new unit. The placement must comply with the same setback requirements that apply to the primary residence and must allow septic service and emergency response access in a safe and timely manner.

Additionally, the law only allows one unit per lot and that unit must house only one resident, who must be the same person named in the application.

Get additional guidance from the League’s FAQs (pdf) (*Link to: <http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellingsfaq.pdf>*)

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

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

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Your LMC Resource

Pam Whitmore

Staff Attorney

(651) 281-1224 or (800) 925-1122

goreilly@lmc.org (*Link to: [mailto: pwhitmore@lmc.org](mailto:pwhitmore@lmc.org)*)

Contact Craig Johnson

IGR Representative

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

cjohnson@lmc.org (*Link to: [mailto: cjohnson@lmc.org](mailto:cjohnson@lmc.org)*)

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Jennifer Welling

From: Spooner & Glenz <jen@spoonerglenz.com>
Sent: Tuesday, June 14, 2016 2:53 PM
To: Renee Eckerly; Jennifer Welling
Subject: Temporary Health Care Dwellings
Attachments: OPT.OUT.STATUTE.pdf; CHAP.11.SECTION.11.54.docx

Attached is a draft of an ordinance opting out of temporary health care dwelling provisions of the State zoning ordinance.

I am attaching a copy of the relevant part of the statute that is applicable to cities.

If the City does not opt-out, then effective September 1 we would need to be prepared to begin accepting applications for permits under the law, we would have to adopt an ordinance establishing a permit fee, and be ready to review and act on submitted applications which I believe have to be acted on within 15 days after receipt.

Generally I think the setback requirements of your zoning ordinance would apply to these structures, but other things such as accessory use, parking and storage of recreational vehicles couldn't regulate the placement of the unit.

I reviewed some materials from the League on this and the League is indicating that because this state statute was made a part of Chapter 462, which regulates zoning, that the cautious thing is to treat the opt-out as a zoning provision, including the public hearing preceded by 10 days published notice.

If you have any questions or would like to discuss this matter further, please feel free to give me a call.

William Spooner
SPOONER & GLENZ LAW OFFICES, PLLC
113 Washburne Avenue
Paynesville, MN 56362
Office: (320) 243-3748
Email: office@spoonerglenz.com

Subd. 7. Fee. Unless otherwise specified by an action of the county board, the county may charge a fee of up to \$100 for the initial permit and up to \$50 for a renewal of the permit.

Subd. 8. No public hearing required; application of section 15.99. (a) Due to the time-sensitive nature of issuing a temporary dwelling permit for a temporary family health care dwelling, the county does not have to hold a public hearing on the application.

(b) The procedures governing the time limit for deciding an application for the temporary dwelling permit under this section are governed by section 15.99, except as provided in this section. The county has 15 days to issue a permit requested under this section or to deny it, except that if the county board holds regular meetings only once per calendar month the county has 30 days to issue a permit requested under this section or to deny it. If the county receives a written request that does not contain all required information, the applicable 15-day or 30-day limit starts over only if the county sends written notice within five business days of receipt of the request telling the requester what information is missing. The county cannot extend the period of time to decide.

Subd. 9. Opt-out. A county may by resolution opt-out of the requirements of this section.

Sec. 3. [462.3593] TEMPORARY FAMILY HEALTH CARE DWELLINGS.

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Subdivision 1. Definitions. (a) For purposes of this section, the following terms have the meanings given.

(b) "Caregiver" means an individual 18 years of age or older who:

(1) provides care for a mentally or physically impaired person; and

(2) is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring.

(c) "Instrumental activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (i).

(d) "Mentally or physically impaired person" means a person who is a resident of this state and who requires assistance with two or more instrumental activities of daily living as certified in writing by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state.

(e) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, or niece of the mentally or physically impaired person. Relative includes half, step, and in-law relationships.

(f) "Temporary family health care dwelling" means a mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that meets the requirements of subdivision 2.

Subd. 2. Temporary family health care dwelling. A temporary family health care dwelling must:

(1) be primarily assembled at a location other than its site of installation;

(2) be no more than 300 gross square feet;

(3) not be attached to a permanent foundation;

(4) be universally designed and meet state-recognized accessibility standards;

(5) provide access to water and electric utilities either by connecting to the utilities that are serving the principal dwelling on the lot or by other comparable means;

(6) have exterior materials that are compatible in composition, appearance, and durability to the exterior materials used in standard residential construction;

(7) have a minimum insulation rating of R-15;

(8) be able to be installed, removed, and transported by a one-ton pickup truck as defined in section 168.002, subdivision 21b, a truck as defined in section 168.002, subdivision 37, or a truck tractor as defined in section 168.002, subdivision 38;

(9) be built to either Minnesota Rules, chapter 1360 or 1361, and contain an Industrialized Buildings Commission seal and data plate or to American National Standards Institute Code 119.2; and

(10) be equipped with a backflow check valve.

Subd. 3. Temporary dwelling permit; application. (a) Unless the municipality has designated temporary family health care dwellings as permitted uses, a temporary family health care dwelling is subject to the provisions in this section. A temporary family health care dwelling that meets the requirements of this section cannot be prohibited by a local ordinance that regulates accessory uses or recreational vehicle parking or storage.

(b) The caregiver or relative must apply for a temporary dwelling permit from the municipality. The permit application must be signed by the primary caregiver, the owner of the property on which the temporary family health care dwelling will be located, and the resident of the property if the property owner does not reside on the property, and include:

(1) the name, address, and telephone number of the property owner, the resident of the property if different from the owner, and the primary caregiver responsible for the care of the mentally or physically impaired person; and the name of the mentally or physically impaired person who will live in the temporary family health care dwelling;

(2) proof of the provider network from which the mentally or physically impaired person may receive respite care, primary care, or remote patient monitoring services;

(3) a written certification that the mentally or physically impaired person requires assistance with two or more instrumental activities of daily living signed by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state;

(4) an executed contract for septic service management or other proof of adequate septic service management;

(5) an affidavit that the applicant has provided notice to adjacent property owners and residents of the application for the temporary dwelling permit; and

(6) a general site map to show the location of the temporary family health care dwelling and other structures on the lot.

(c) The temporary family health care dwelling must be located on property where the caregiver or relative resides. A temporary family health care dwelling must comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. The temporary family health care dwelling must be located on the lot so that septic services and emergency vehicles can gain access to the temporary family health care dwelling in a safe and timely manner.

(d) A temporary family health care dwelling is limited to one occupant who is a mentally or physically impaired person. The person must be identified in the application. Only one temporary family health care dwelling is allowed on a lot.

(e) Unless otherwise provided, a temporary family health care dwelling installed under this section must comply with all applicable state law, local ordinances, and charter provisions.

Subd. 4. Initial permit term; renewal. The initial temporary dwelling permit is valid for six months. The applicant may renew the permit once for an additional six months.

Subd. 5. Inspection. The municipality may require that the permit holder provide evidence of compliance with this section as long as the temporary family health care dwelling remains on the property. The municipality may inspect the temporary family health care dwelling at reasonable times convenient to the caregiver to determine if the temporary family health care dwelling is occupied and meets the requirements of this section.

Subd. 6. Revocation of permit. The municipality may revoke the temporary dwelling permit if the permit holder violates any requirement of this section. If the municipality revokes a permit, the permit holder has 60 days from the date of revocation to remove the temporary family health care dwelling.

Subd. 7. Fee. Unless otherwise provided by ordinance, the municipality may charge a fee of up to \$100 for the initial permit and up to \$50 for a renewal of the permit.

Subd. 8. No public hearing required; application of section 15.99. (a) Due to the time-sensitive nature of issuing a temporary dwelling permit for a temporary family health care dwelling, the municipality does not have to hold a public hearing on the application.

(b) The procedures governing the time limit for deciding an application for the temporary dwelling permit under this section are governed by section 15.99, except as provided in this section. The municipality has 15 days to issue a permit requested under this section or to deny it, except that if the statutory or home rule charter city holds regular meetings only once per calendar month the statutory or home rule charter city has 30 days to issue a permit requested under this section or to deny it. If the municipality receives a written request that does not contain all required information, the applicable 15-day or 30-day limit starts over only if the municipality sends written notice within five business days of receipt of the request telling the requester what information is missing. The municipality cannot extend the period of time to decide.

Subd. 9. Opt-out. A municipality may by ordinance opt-out of the requirements of this section. ✓

Sec. 4. EFFECTIVE DATE. This act is effective September 1, 2016, and applies to temporary dwelling permit applications made under this act on or after that date.

Presented to the governor May 12, 2016

Signed by the governor May 12, 2016, 1:27 p.m.

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ORDINANCE NO. ____, 2ND SERIES

AN ORDINANCE OF THE CITY OF PAYNESVILLE, MINNESOTA, AMENDING CITY CODE CHAPTER 11 ENTITLED "LAND USE REGULATIONS (ZONING)" BY ADDING A NEW SECTION 11.54 ENTITLED "OPTING-OUT OF REQUIREMENTS OF M.S.A. §462.3593" AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 11.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY COUNCIL OF PAYNESVILLE ORDAINS:

Section 1. City Code, Chapter 11 Entitled "Land Use Regulations (Zoning)" is hereby amended by adding Section 11.54 to read as follows:

SECTION 11.54. OPTING-OUT OF REQUIREMENTS OF M.S.A. 462.3593.

Subd. 1. Authority. M.S.A. §462.3593 allows cities to opt-out of the regulations codified in M.S.A. §462.3593.

Subd. 2. Purpose. Governor Dayton signed into law on May 12, 2016, M.S.A. §462.3593 which provides a process to permit and regulate temporary family health care dwellings. The purpose of this ordinance is to opt-out of those regulations.

Subd. 3. Opt-out of M.S.A. §462.3593. Pursuant to the authority granted by M.S.A. §462.3593, Subd. 9, the City of Paynesville opts-out of the requirements of M.S.A. §462.3593, which defines and regulates temporary family health care dwellings.

Subd. 4. Effective Date. This ordinance is effectively immediately upon its passage and publication.

Section 2. City Code, Chapter 1, entitled "General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation" and Section 11.99 entitled "Violations a Misdemeanor", are hereby adopted in their entirety by reference as though repeated verbatim herein.

Adopted by the City Council of the City of Paynesville this ____ day of _____, 2016.

Jeff Thompson, Mayor

ATTEST:

Renee Eckerly, City Administrator

Published in the Paynesville Press on _____.

REQUEST FOR COMMITTEE/COUNCIL ACTION

COMMITTEE/COUNCIL NAME: Planning Commission

Committee/Council Meeting Date: June 20, 2016

Agenda Section: Old Business

Originating Department: Administration

Item Number: IV - A

ITEM DESCRIPTION: Zoning Ordinance Amendments - Codification

Prepared by: Staff

COMMENTS:

Does the Planning Commission have any questions regarding the changes being proposed? ***Please bring your Ordinance Amendment packet with you from the last meeting.*** The Public Hearing on the amendments will be held on July 18, 2016 at 6:05 p.m. Attached is the proposed language on the new proposed ordinances for wind and solar energy.

Discussion.

ADMINISTRATOR COMMENTS:

COMMITTEE/COUNCIL ACTION:

ORDINANCE NO. _____, 2ND SERIES

AN ORDINANCE OF THE CITY OF PAYNESVILLE, MINNESOTA, AMENDING CITY CODE CHAPTER 11 ENTITLED "LAND USE REGULATIONS (ZONING)" BY ADDING A NEW SECTION 11.53 ENTITLED "WIND ENERGY CONVERSION SYSTEMS REGULATIONS" AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 11.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY COUNCIL OF PAYNESVILLE ORDAINS:

Section 1. City Code, Chapter 11 Entitled "Land Use Regulations (Zoning)" is hereby amended by adding Section 11.53 to read as follows:

SECTION 11.53. WIND ENERGY CONVERSION SYSTEMS REGULATIONS.

Subd. 1. Authority & Purpose. This provision is enacted pursuant to the authority granted by the Municipal Planning Act, M.S.A. 462.351, et seq. The intent of this provision is to ensure public health, safety and general welfare in accordance with adopted goals, plans and policies of the City of Paynesville, to enhance privacy and the quality of the physical environment of the City; to protect and maintain property values and preserve and develop the economic base within the City.

Subd. 2. Definition.

Wind Energy Conversion System or Windmill. An apparatus capable of converting wind energy into electricity.

Subd. 3. Permitted Wind Energy Systems. Wind energy systems may be permitted as a conditional use in any zoning district.

Subd. 4. Requirements to Obtain a Conditional Use Permit. In order to qualify for a Conditional Use Permit in any zoning district, the wind energy conversion system must meet the following criteria:

i) Wind energy conversion systems shall be set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor.

ii) Wind energy conversion systems shall be certified by a professional engineer as being of a design adequate for the atmospheric conditions in the area.

iii) Wind energy conversion systems shall be equipped with over speed or similar controls designed to prevent disintegration of the rotor in high winds.

iv) Wind energy conversion systems shall be in compliance with all building and electrical code requirements of the City, noise regulations of the Minnesota

Pollution Control Agency, and rules and regulations of the Federal Communication Commission and Federal Aviation Administration.

v) The Conditional Use Permit shall provide that if a wind energy conversion system has not been operated for a period of one (1) year or fails to meet the conditions required in this section, the City Council may order it dismantled and the site restored to its original condition.

vi) The Conditional Use Permit shall further provided that if the owner or person responsible for a wind energy conversion system does not maintain it or comply with all requirements of this chapter, the City may take such steps as are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The City may sell salvaged and valuable materials at public auction on 10 days notice.

vii) Wind energy conversion systems shall not have exterior lights that illuminate or glare upon or into adjoining parcels of real estate.

Section 2. City Code, Chapter 1, entitled “General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation” and Section 11.99 entitled “Violations a Misdemeanor”, are hereby adopted in their entirety by reference as though repeated verbatim herein.

Adopted by the City Council of the City of Paynesville this ____ day of _____, 2016.

Jeff Thompson, Mayor

ATTEST:

Renee Eckerly, City Administrator

ORDINANCE NO. ____, 2ND SERIES

AN ORDINANCE OF THE CITY OF PAYNESVILLE, MINNESOTA, AMENDING CITY CODE CHAPTER 11 ENTITLED "LAND USE REGULATIONS (ZONING)" BY ADDING A NEW SECTION 11.52 ENTITLED "SOLAR ENERGY SYSTEMS REGULATIONS" AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 11.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY COUNCIL OF PAYNESVILLE ORDAINS:

Section 1. City Code, Chapter 11 Entitled "Land Use Regulations (Zoning)" is hereby amended by adding Section 11.52 to read as follows:

SECTION 11.52. SOLAR ENERGY SYSTEMS REGULATIONS.

Subd. 1. Authority & Purpose. This provision is enacted pursuant to the authority granted by the Municipal Planning Act, M.S.A. 462.351, et seq. The intent of this provision is to ensure public health, safety and general welfare in accordance with adopted goals, plans and policies of the City of Paynesville, to enhance privacy and the quality of the physical environment of the City; to protect and maintain property values and preserve and develop the economic base within the City.

Subd. 2. Definitions.

a) Solar Energy System. An apparatus capable of converting solar energy into electricity or capturing solar energy without transforming it into another form of energy or transferring the heat via a heat exchanger.

b) Integrated Solar Energy System. An integrated solar energy system is an integral part of a principle or accessory building rather than a separate mechanical device, replacing or substituting for an architectural element or structural component including, but not limited to, photo voltaic or hot water solar energy systems contained within roofing materials, windows, skylights and awnings.

Subd. 3. Permitted Solar Energy Systems. Solar energy systems are allowed in all zoning districts, subject to the following:

a) System Standards - Electrical.

- i) All electrical shall be installed underground.
- ii) An exterior disconnect switch shall be installed at the electrical meter serving the property.
- iii) The system shall be grounded to protect against natural lightning strikes in conformance with the national electrical code.

iv) No solar energy system shall be interconnected with a local electrical utility company until the company has reviewed and commented upon it. The interconnection of the solar energy system with the utility company shall adhere to the national electrical code.

b) Maximum Area - Ground Mounted Solar Energy Systems. Ground mounted solar energy systems shall be limited to a maximum area of:

i) Residential Uses – 240 square feet

ii) Non-Residential Uses – 10% of lot area

c) Maximum Area - Roof Mounted Solar Energy Systems. Roof mounted solar energy systems must:

i) Use colors that are the same or similar with the color of the roof material on the building.

ii) Comply with the maximum height requirements applicable to the zoning district.

iii) Not extend beyond the roof perimeter or exterior walls of the building on which it is mounted.

Subd. 4. Ground Mounted Solar Systems. Ground mounted solar systems must:

a) Meet the location and setback requirements for an accessory building under the provisions of this chapter.

b) Meet any setback and screening requirements for the zoning district within which the solar energy system is located.

Subd. 5 General Requirements. All solar energy systems must:

a) Be certified by Underwriters Laboratories, Inc., and comply with the requirements of the International Building Code.

b) Be removed if the system becomes inoperable for 12 successive months or fails to meet the conditions and requirements of this section. The City may order the system to be dismantled and removed under such circumstances. If the owner or person responsible for the solar energy system does not maintain or comply with all requirements of this chapter, the City may take such steps as are necessary to achieve compliance. The costs of such work, including administrative costs, shall be a lien against the property and may be collected as

a special assessment. The City may sell salvaged and valuable materials at public auction on 10 days notice.

e) Obtain a building permit as may be required by the Building Code for any solar energy system prior to installation.

Section 2. City Code, Chapter 1, entitled "General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation" and Section 11.99 entitled "Violations a Misdemeanor", are hereby adopted in their entirety by reference as though repeated verbatim herein.

Adopted by the City Council of the City of Paynesville this ____ day of _____, 2016.

Jeff Thompson, Mayor

ATTEST:

Renee Eckerly, City Administrator

Published in the Paynesville Press on _____, 2016.

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Building Inspection Report

Brad Mehlhop

June 20th, 2016

These are notes of outstanding building permits for the year 2013. There are no outstanding permits for 2014. There are no permits for 2015 that are not showing progress.

>2013-00169 - This permit is for a basement remodel. Progress is being made. Health problems in the family caused a delay. There has been progress. The Sheetrock is being taped, waiting for a call for final inspection.

Other than the permit above, all other permits are showing progress. The Apartments have been finalized and a Certificate of Occupancy given.

I attended the Five day class given by the Department of labor and Industry from June 6th through June 10th. I am now eligible to take the test. I am registered to take it on June 30th in Saint Paul. The test is 120 questions and I have 4.5 hours to complete it.

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City of Paynesville
Pending Inspections Report

Order By: Issued Date and Permit#
Issued Date From: 10/13/2012 To: 6/13/2016
Permit Type: All Property Type: All Construction Type: All
Inspection Type: All
Report Detail: None

Date Issued	Permit#	Site Address Applicant, Phone Insp Date - Insp - Inspection Type	Permit Kind
12/16/2013	2013-00169	530 MAYWOOD AVE JUMA, EMSON (320) 267-1183	Building Residential Remodel
02/12/2015	2015-00014	531 MINNIE ST STANG,BRUCE F & BERNADETTE L	Building Industrial Remodel
05/07/2015	2015-00033	214 POMEROY AVE DAHL HOUSE RENTALS (320) 492-0374	Building Residential Siding
05/07/2015	2015-00040	214 POMEROY AVE DAHL HOUSE RENTALS (320) 492-0374	Building Residential Window/Door Replacement
06/12/2015	2015-00056	404 BUSINESS 23 W MUETZEL, WHITTNEY	Building Residential Window/Door Replacement
07/22/2015	2015-00081	405 BUSINESS 23 E UTSCH, DIANE & TOM (320) 243-3747	Building Multi Family (5+ Units) Remodel
08/25/2015	2015-00113	350 POMEROY AVE HELLERMANN, JOSH	Building Residential Addition
10/08/2015	2015-00135	107 WASHBURNE AVE Song, Sejin (Shane) (612) 423-1055	Building Commercial Remodel
10/19/2015	2015-00136	310 LAKE AVE CROMWELL, TYLER	Building Residential Remodel
10/30/2015	2015-00141	200 RAILROAD ST W ROOF 1 RBR, INC (320) 836-7663	Building Industrial Roofing
11/13/2015	2015-00145	216 RAILROAD ST SERENITY PATH	Building Residential Siding

Date Issued	Permit#	Site Address Applicant, Phone Insp Date - Insp - Inspection Type	Permit Kind
11/23/2015	2015-00147	314 STEARNS AVE CHANEY, JAMES (320) 980-7522	Building Residential Roofing
12/09/2015	2015-00151	104 BUSINESS 23 W BENSON, DOUGLAS	Building Commercial Remodel
11/25/2015	2015-00155	639 WASHBURNE AVE RINDAHL, NATHAN (320) 894-9404	Building Residential Remodel
12/29/2015	2015-00159	130 INDUSTRIAL LOOP E KORONIS BUILDERS ONE (320) 249-7074	Building Industrial Addition
12/31/2015	2015-00163	1030 STEARNS AVE VELYAN, RAYMOND & MARETTA (320) 243-7898	Building Residential Remodel
03/15/2016	2016-00005	540 MINNIE ST VOSS, DAVID (320) 250-3410	Building Industrial Window/Door Replacement
01/28/2016	2016-00012	628 ALLDON PARK DR LARSON, LARRY AND JUDY (320) 243-7542	Building Residential Remodel
02/01/2016	2016-00013	805 HIGHWAY 55 GRACE UNITED METHODIST (320) 243-3601	Building Commercial Remodel
02/11/2016	2016-00017	121 WASHBURNE AVE SL HILTNER PROPERTY MANANGEMENT (320) 254-3438	Building Multi Family (5+ Units) Remodel
04/01/2016	2016-00020	390 KIRA LN MIKE ARNOLD CONSTRUCTION INC (320) 243-7545	Building Residential New Construction
04/04/2016	2016-00022	125 INDUSTRIAL LOOP W STANG, BRUCE	Building Commercial Remodel
04/04/2016	2016-00023	611 STEARNS AVE GERDING, ERIC (320) 493-2244	Building Residential Remodel
05/02/2016	2016-00025	221 BUSINESS 23 W CHRISTENSEN, BRANDON	Building Residential Remodel

Date Issued	Permit#	Site Address Applicant, Phone Insp Date - Insp - Inspection Type	Permit Kind
04/19/2016	2016-00026	720 MAIN ST W BUERMANN, JOHN (320) 293-8740	Building Residential Remodel
05/03/2016	2016-00027	534 MORNINGSIDE AVE MONDLOCH INC (320) 548-3255	Mechanical Residential Repair/Maintenance
05/04/2016	2016-00028	206 RIVER ST LANG, LEROY A & KRISTINE C	Building Residential Roofing
05/18/2016	2016-00031	130 WASHBURNE DR VARNER, RICK	Building Residential Roofing
05/02/2016	2016-00042	355 AUGUSTA AVE MIKE ARNOLD CONSTRUCTION INC (320) 243-7545	Building Residential Accessory Building
05/09/2016	2016-00043	202 WASHBURNE AVE GILK PLUMBING HEATING AND AC LLC (320) 260-6914	Building Commercial Remodel
05/02/2016	2016-00044	361 MAYWOOD AVE BURG, JON (320) 293-6152	Building Residential Accessory Building
05/17/2016	2016-00045	352 AUGUSTA AVE DOLLY, TRENT (320) 340-6057	Building Residential Accessory Building
05/25/2016	2016-00046	230 AMPE DR John Mor	Building Commercial Commercial Remodel
06/01/2016	2016-00047	838 MAPLE ST OAKRIDGE CONSTRUCTION INC (320) 354-2621	Building Residential Remodel
05/27/2016	2016-00048	125 OAK PARK AVE MONDLOCH INC (320) 548-3255	Building Residential Remodel

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