

BRAINERD PLANNING COMMISSION

Wednesday, January 8, 2014

6:00 p.m.

City Hall Council Chambers

1. Call to Order
2. Approval/Amendment of Agenda
3. Approval of minutes of the regular meeting of December 11, 2013 and the Special Meeting of January 2, 2014
4. NEW BUSINESS
 - a. Public Hearing – Zoning Text Amendment to Permit Industrial District and Mixed Use District Zoning Structure Demolition by Interim Use Permit
5. PUBLIC FORUM – Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission – Time limits may be imposed.
6. OLD BUSINESS
 - a. Brainerd Hotel – Discussion
 - b. Dispensing Methadone, Zoning Ordinance Text Amendment – Status
 - c. Winter Workshop – Discussion
7. Commissioners' Questions/Comments
8. City Planner Report
9. Adjournment

Any individual needing special accommodations please call 218/828-2309

PLANNING COMMISSION
Wednesday, December 11, 2013

Chairman Mike Jay called the meeting of the Brainerd Planning Commission to order at 6:02 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Pritschet, Plantenberg, Hayden, Jay, Lambert, Norwood, and Cole. Also present was City Planner Ostgarden.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#3 Approve minutes of the regular meeting of November 13, 2013

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF NOVEMBER 13, 2013.

#4 NEW BUSINESS

a. Public Hearing – Zoning Text Amendment Related to Dispensing of Medication for Opiate Addiction

The public hearing was opened at 6:04 p.m.

City Planner Ostgarden read an email that was received from the Executive Director of Northern Pines Medical Center regarding concerns with the proposed language. He stated he shared the email with the City Attorney and it is their recommendation that the Planning Commission hold the public hearing and allow the public input and then not take action tonight to research the language further based off the concerns that were raised.

Mr. Sam Anderson, Director of MN Adult Teen Challenge Center, stated he supports the efforts being made regarding opiate treatment. He stated the concern is with restricting other treatment modalities other than methadone. He gave information to the Commission regarding information from some graduates of his program that have used methadone treatment and the issues with it.

Ms. Margaret Becker, 6023 Donald Street, Baxter, stated she is here tonight to support the proposed changes.

The public hearing was closed at 6:12 p.m.

Chairman Jay stated the Commission will take the additional information under advisement for additional research to be brought back at a later date.

b. Zoning Ordinance Text Amendment Proposal – Adding Interim Use Permits Related to Structure Demolition in Industrial Districts

City Planner Ostgarden stated this issue was brought forth in the last couple weeks. He stated if a non-residential demolition were to take place there is only a \$40 over the counter permit that is required. He stated there are many more issues associated with facilities in an industrial or commercial district and we cannot address those issue, health, safety, and welfare, with the current procedure.

City Planner Ostgarden stated the Planning Department is recommended a Zoning Ordinance text amendment to add language that would require an interim use permit to be issued for the demolition of buildings, machinery, parking lots, etc in industrial park districts.

City Planner Ostgarden reviewed the staff report and issues that would come up during the demolition of a major facility such as restoration of the site after demolition occurs, vibration from demolition equipment, waste and debris removal, and possible redevelopment plans.

City Planner Ostgarden stated there is currently language regarding interim use permits in residential districts. He stated this mechanism is the appropriate use when working with a demolition on an industrial site. He stated he has been working with the City of Sartell and modeling the proposed language from the language they adopted.

City Planner Ostgarden read the proposed language. He stated this would be added to the I-1 (Light Industry) District and I-2 (General Industry) District. He reviewed the interim use permit process.

Commissioner Jay suggested also adding the language to the Mixed Use District.

City Planner Ostgarden stated the City Council has placed a four month moratorium on the demotion of buildings in industrial districts to allow the Zoning Ordinance Text Amendment. He stated a public hearing on the proposed language change could be held at the January 8, 2014 meeting.

Commissioner Lambert asked if this will also protect the City if the demolition is only partially completed. City Planner Ostgarden stated a financial guarantee should be required as part of the approval process.

Commissioner Lambert stated the concerns are that the site will be buildable or sellable after the demolition.

Discussion was held regarding current requirements on demolition of residential and commercial properties and expansion of this language to commercial districts.

City Planner Ostgarden recommended moving forward with the language for industrial districts and he will do additional research for the commercial districts.

Commissioner Cole questioned the legality of the language. City Planner Ostgarden stated the State Statute specifically lays out the ability to do it. The Zoning Ordinance lays out how to review it.

Discussion was held on requirements/conditions on the demolition or redevelopment plans and how the interim use permit approval process will work.

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND NORWOOD, DULY CARRIED, TO SET A PUBLIC HEARING FOR JANUARY 8, 2014 FOR A ZONING ORDINANCE TEXT AMENDMENT TO ADD INTERIM USE PERMITS RELATED TO STRUCTURE DEMOLITION IN INDUSTRIAL AND MIXED USE DISTRICTS.

#5 **PUBLIC FORUM** – Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission – Time limits may be imposed

City Planner Ostgarden stated the City Council would like to convey to the community its desire to have more opportunities for public input.

#6 **OLD BUSINESS**

a. **Trail Discussion**

Commissioner Hayden stated her trail priorities would be the riverwalk adding the area north of Washington Street to Mill Park, finish the connections of existing trail systems, and safe access across Washington Street. She stated there is more detailed information in the report presented to the Commission.

Commissioner Jay presented some other possible crossings on Washington Street.

Commissioner Lambert stated it should be a priority to mark trails. She stated there should also be safe access across South 6th Street.

Commissioner Cole stated he would like to see QR Codes along the trails that could be scanned to bring up a map of the trails.

Commissioner Norwood stated the completion of the Cuyuna Lakes trail from the iron range to Brainerd would be priority. Next would be the riverwalk. Additionally would be joining the industrial park trail with existing trails.

Commissioner Plantenberg stated it would be nice to connect NE Brainerd to the trails in the other parts of the city.

Commissioner Pritschet stated marking the trails should be priority so people know where the trails are. He would also like to see bike trails in the S 6th Street and Washington Street areas. He stated the riverwalk would be next along with connecting existing trails.

Commissioner Jay stated his trail priorities would be safer crossings at major thoroughfares and connection of existing trails.

Commissioner Jay stated he will tabulate the suggestions and present it to the bike and trail committee.

Commissioner Lambert questioned the ordinance allowing bicycles on the sidewalk as she feels it doesn't force bicyclist to follow the rules of the road and it doesn't allow motorists to get used to sharing the road with bicyclists.

Commissioner Jay stated the ordinance was put into place before there were trails in town but needed a safe place to ride.

Commissioner Hayden stated adding canoe landings to trails south of Kiwanis Park would also improve the trail system and recreation in the city.

b. Whittier Property Community Meeting Recap

Commissioner Pritschet stated there were approximately 42 people at the meeting including city staff and other associated with the building. He stated there was discussion on ideas for reuse of the Whittier property. The ideas were then voted on. The most popular was to see it used as a school, donating it to a church, demolishing it and adding it into the park, and a community center.

City Planner Ostgarden stated this will be presented to the City Council and their recommendations will be forwarded on to the School Board for it do with them as they deem appropriate.

Commissioner Pritschet stated Councilmember Bevans found the survey that was done two years ago which also showed at the time the top choice for reuse of the building was a school and the number two choice was community center.

#7 Commissioners' Questions/Comments

Commissioner Lambert brought up discussion on the community center definition. She stated she would like a definition in the ordinance to allow this type of use for large vacant buildings in residential districts.

Commissioner Pritschet asked where the other Commissioners stand on the small house topic. He stated he isn't against it, but doesn't see the demand for it right now, therefore he's not sure if there should be too much time spent on it.

Commissioner Lambert stated she is looking more at a planned unit development of the small homes that may be used as summer rentals or time shares.

Commissioner Plantenberg stated she would like to see it in the ordinance for possibilities in the future, maybe for the older generation that would only want to manage a small home.

Commissioner Hayden stated she is a big proponent of this and infill of vacant lots throughout the city. She stated there is not a huge demand but there should be a conditional use if it is brought before the Commission.

Commissioner Norwood stated he likes the idea and would like to see it occur, but currently there are already many rentals and his concern is the small homes or infill will create additional rentals.

Commissioner Cole stated the purpose of planning and zoning is to look and anticipate what is out there. He stated we're seeing more evidence that this is a trend not a fad. We need to get ahead of it to guide it into our community. He stated would should have input and discussion sooner rather than later.

Commissioner Jay stated he agrees that it is important and misunderstood. He stated affordable retirement housing demand is growing. He stated this has a potential to be a great impact for our community in a great way. He stated many don't want an apartment setting. It is important to have another avenue for the retirement community.

Commissioner Lambert stated she would like to see information on what the current retirement age is and if it is getting younger.

Commissioner Hayden stated most of the small home developments are not rental investments. She stated many times it's those that want something smaller with less maintenance.

Further discussion will be held at a future workshop.

#8 City Planner's Report

City Planner Ostgarden stated the walkable/bikeable committee had its first meeting on November 25. It was more of an organizational meeting with ideas presented on priorities. They will be meeting the 4th Monday of each month. He stated it will be a committee will present its findings and report to the Planning Commission before it's presented to the City Council

City Planner Ostgarden gave an update on the "flea market" on 13th Street. The property owner has until December 20 to clean up the property. If it isn't cleaned, the prosecuting attorney will move forward to the next step which could potentially be jail time or the city cleaning up the property and assessing the costs.

City Planner Ostgarden asked if the Commission would like to hold a winter workshop as they have in the past. The Commission agreed to have discussion on a winter workshop at the January meeting.

#9 Adjournment

As there was no further business the meeting adjourned at 7:40 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

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PLANNING COMMISSION

Thursday, January 2, 2014

Chairman Mike Jay called the special meeting of the Brainerd Planning Commission to order at 5:30 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Pritschet, Plantenberg, Jay, Lambert, Norwood, and Cole. Commissioner Hayden was noted absent. Also present was City Planner Ostgarden.

#1 NEW BUSINESS

a. Public Hearing – Variance at 1423 South 10th Street – Misty Bayliss – to permit the accessory building to exceed the height of the principal building.

The public hearing was opened at 5:30 p.m.

City Planner Ostgarden stated in August a variance was granted to allow an accessory building to be built in the front yard of the corner lot. The property owner planned to match the pitch of the garage to that of the house (an 8/12 pitch), but when the first truss was put up, the owner realized the height of the garage was going to be taller than the house by 20 inches. The property owner contacted the City.

City Planner Ostgarden stated he reviewed the options with the property owner such as waiting for the regular meeting in January or applying for a special meeting. He stated he also allowed the property owner to continue with the installation of the trusses with a notarized agreement that if the variance was not granted, the trusses will have to be removed.

City Planner Ostgarden stated there is a financial burden on the property owner if they have to order new trusses. He stated the garage will not be out of character for the neighborhood and he has not heard anything from anyone in the neighborhood.

Ms. Misty Bayliss, 1423 South 10th Street, explained what she did when ordering the materials for the garage and when getting quotes had stated the house was an 8/12 pitch and she wanted the garage to match. She was not aware there would be a height difference. She noted they are doing the work themselves.

Commissioner Jay stated he believes the Commission was clear that the garage was to be the same height as the house.

Discussion was held regarding the building permit process and what information must be provided.

Mr. Thomas Cary stated he called the truss company when he realized the trusses were higher than the house. He explained that because the garage is two feet wider, that is where the height difference came in.

The public hearing was closed at 5:45 p.m.

Commissioner Pritschet stated the height difference is not going to be a detriment to the neighborhood and it fits into the intent and purposes of the Zoning Ordinance. He stated the

application may need to be reviewed. He feels it was an honest mistake and that the variance should be granted.

Commissioner Plantenberg stated she feels this was an honest mistake, but it will still improve the neighborhood and the variance should be granted.

Commissioner Lambert stated she agrees it will improve the property and the neighborhood. She stated her only concern is granting a variance is it a hardship or an error, but she would agree to grant the variance.

Commissioner Norwood stated he feels the variance should be granted. He stated he agrees the application process should be reviewed to try to prevent this from happening again.

Commissioner Plantenberg read the findings-of-fact into the record as follows: 1. The property is located in an R-1 (Single Family Residential) District; 2. The property is a corner lot with a lot size of 75' x 144' (10,800) sf; 3. A variance was granted in August 2013 to permit an accessory building to be located closer to the front property line than the principle building on the lot; 4. Access to the garage will be off the Summit Street cul-de sac; 5. All setbacks, lot coverage and garage size limit requirements are met; 6. The owner desired to match the 8/12 house pitch and discovered that pitch would make the garage 20" taller than the house; 7. Lot size - the additional garage height and location and its relationship to the house height and location contribute to the property being used in a reasonable manner; 8. In relationship to the neighborhood the additional garage height does not alter its essential character; 9. Granting the variance is consistent with the Comprehensive Plan because it supports the Land Use Strategy of: *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.*

The Commissioner agreed to adding finding-of-fact 10. The property owner spoke in favor, none spoke in opposition.

Commissioner Cole read the practical difficulty "the plight of the landowner is due to circumstances unique to the property not created by the landowner" and questioned what circumstances we are talking about.

Commissioner Lambert stated the variance is consistent with the Comprehensive Plan in it encourages development.

Commissioner Cole stated he is concerned this will continue to occur and we will be hearing this issue again. He stated the processes need to be reviewed to prevent this from happening in the future.

City Planner Ostgarden stated he does not believe this was a break down in the internal process, it was an honest mistake by the property owner.

MOTION AND SECONDED BY COMMISSIONERS PLANTENBERG AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF VARIANCE 382 TO ALLOW THE ACCESSORY BUILDING TO EXCEED THE HEIGHT OF THE PRINCIPAL BUILDING BY TWENTY (20) INCHES WITH THE TEN (10) FINDINGS-OF-FACT.

#2 **Adjournment**

As there was no further business the meeting adjourned at 5:48 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

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NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is given that the City of Brainerd Planning Commission has initiated a public hearing to consider a text amendment of the Brainerd Zoning Ordinance Sections 515-70-4 I-1 (Light Industry) District, 515-71 I-2 (General Industry) District, and 515-72 MU (Mixed Use) District to consider amending/adding the following:

515-70-4: Interim Uses

C. Decommissioning, which is defined as the significant removal of machinery from service within a site, or the demolition of existing buildings, pavement, structures or facilities, and/or site remediation for the purposes of leaving a property barren for an unspecified amount of time. A site plan shall be submitted and is subject to Section 10 of this Ordinance.

515-71-4: Interim Uses

A. Decommissioning, which is defined as the significant removal of machinery from service within a site, or the demolition of existing buildings, pavement, structures or facilities, and/or site remediation for the purposes of leaving a property barren for an unspecified amount of time. A site plan shall be submitted and is subject to Section 10 of this Ordinance.

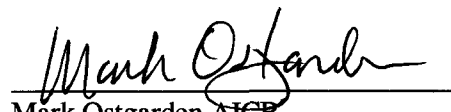
515-72-4: Interim Uses

A. Decommissioning, which is defined as the significant removal of machinery from service within a site, or the demolition of existing buildings, pavement, structures or facilities, and/or site remediation for the purposes of leaving a property barren for an unspecified amount of time. A site plan shall be submitted and is subject to Section 10 of this Ordinance.

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, January 8, 2014 to consider the Text Amendment. A copy of the Text Amendment is on file at the City Planning Department, 501 Laurel Street.

Any individual needing special accommodations please call (218) 828-2309.

Dated this 23rd day of December, 2013


Mark Ostgarden AICP
City Planner

Publication date: December 27, 2013

SECTION 70
I-1, LIGHT INDUSTRY DISTRICT

Section:

- 515-70-1: Purpose and Intent
- 515-70-2: Permitted Uses
- 515-70-3: Accessory Uses
- 515-70-4: Interim Uses
- 515-70-5: Conditional Uses
- 515-70-6: Uses by Administrative Permit
- 515-70-7: Lot Area and Setback Requirements
- 515-70-8: Building Height
- 515-70-9: Building Requirements

See Page 4

515-70-1: Purpose and Intent. To provide for the establishment of warehousing and light industrial development, particularly in the form of industrial parks. The overall character of the I-1 District is intended to have low impact character. Industrial uses allowed in this district shall be limited to those which can compatibly exist adjacent to both lower intensity business uses and high intensity manufacturing uses but which require isolation from residential uses. This district may also incorporate general office and commercial uses.

515-70-2: Permitted Uses.

- A. Conducting a process, fabrication, wholesale operation, manufacturing or providing a service, including any of the following or similar uses meeting the performance standards applicable to the I-1 District, provided that all development uses in the I-1 District are conducted wholly within a building:
1. Machine shops.
 2. Paper products from previously processed paper.
 3. Electronics assembly and testing.
 4. Commercial printing and publishing establishments.
 5. Laundry, dry cleaning or dyeing plants.
 6. Food/beverage processing.
 7. Cosmetics/toiletries
 8. Drugs and pharmaceuticals.
 9. Beverage bottling.
 10. Recycling center.
 11. Woodworking.
 12. Retail sales operated by non-profit organizations to benefit said non-profit organizations by selling items primarily related to the building industry.
- B. Radio and television studios.

- C. Research laboratories.
- D. Warehousing and wholesaling.
- E. Guard/Reserve facilities.
- F. Automobile body shop and transmission repair subject to the following conditions:
 - 1. All outdoor storage of vehicles shall be screened by at least a six (6) foot fence, but not in excess of eight and one-half (8½) feet in height, and shall be ninety (90) percent opaque fence.
 - 2. Any vehicle parked or stored on the property for longer than twenty-four (24) hours shall be kept in the screened yard.
- G. Government and public utility buildings and structures.
- H. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- I. Contractor offices.
- J. Essential services as regulated by Section 36 of this Ordinance.
- K. Retail sales operated by non-profit organizations to benefit said non-profit organizations by selling items primarily related to the building industry.
- L. Electrical/Plumbing/Heating/Air Conditioning products and parts.
- M. Metal Sales such as steel and other raw materials.
- N. Construction equipment sales and repair.
- O. Truck and semi tractor/trailer sales and repair.
- P. Sale of parts and sale and repair of tires for construction equipment and semi tractor trailers.
- Q. Sales and distribution of propane, acetylene, helium, CO2 and similar tanks.
- R. Commercial sales incidental to the manufacture, processing or wholesaling of products manufactured on, processed on or wholesaled from the premises. The sales area shall be segregated from the principal use of the building.
- S. All commercial uses permitted in B-1, B-2, B-3, B-4, and B-6 zoning districts are permitted when the commercial use has access on an arterial or collector road.

515-70-3: Accessory Uses.

- A. Off-street parking as regulated in Section 22 of this Ordinance.
- B. Off-street loading as regulated in Section 23 of this Ordinance.
- C. Signs as regulated in Section 37 of this Ordinance.
- D. Residence for night watchman or other security personnel.
- E. Commercial or business buildings not to exceed thirty (30) percent of the gross floor space of the principal building and shall be of the same material and design as the principal use.
- F. Fences as regulated in Section 19 of this Ordinance.
- G. Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.
- H. Outdoor storage accessory to a principal use provided that:
 - 1. The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per Section 20 of this Ordinance.
 - 2. Storage area is fenced in a manner approved by the City.
 - 3. Storage area is paved or surfaced to control dust and erosion.
 - 4. All lighting shall be in compliance with Section 18 of this Ordinance.
 - 5. The storage area does not take up parking space or loading space as required for conformity to this Ordinance and not in front yards.
 - 6. The property shall not abut property zoned for residential, rural, or business use, including land in a neighboring township or city. "Abutting" includes across a street. "Abutting" does not include properties that touch only corner to corner.
 - 7. The storage area shall not abut a school or a public park.
 - 8. The ratio of storage area to building footprint shall not exceed three and one-half to one (3.5:1).

9. Storage shall not include material considered hazardous under Federal or State Environmental Law.

515-70-4: Interim Uses.

A. Outdoor storage as a principal use provided that:

1. All storage is screened from view of neighboring uses and public rights-of-way via a fence or green belt planting strip or combination thereof in compliance with Section 20 of this Ordinance.
2. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
3. All lighting will be in compliance with Section 18 of this Ordinance.
4. The storage area is fenced and secured as regulated by Section 19 of this Ordinance.
5. The storage area is paved or surfaced to control dust and erosion.
6. All parking, loading and truck staging activities shall occur on site. On-street parking and loading associated with the use is prohibited.
7. Noises emanating from the use are in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations MPC 7030.

B. Billboard signs as regulated by Section 37 of this Ordinance.

C. DECOMMISSIONING, WHICH IS DEFINED AS THE SIGNIFICANT REMOVAL OF MACHINERY FROM SERVICE WITHIN A SITE, OR THE DEMOLITION OF EXISTING BUILDINGS, PAVEMENT, STRUCTURES OR FACILITIES, AND/OR SITE REMEDIATION FOR THE PURPOSES OF LEAVING A PROPERTY BARREN FOR AN UNSPECIFIED AMOUNT OF TIME. A SITE PLAN SHALL BE SUBMITTED AND IS SUBJECT TO SECTION 10 OF THIS ORDINANCE.

515-70-5: Conditional Uses.

- A. Outdoor sales lot, provided that all outdoor storage be screened by a fence or compact evergreen hedge at least fifty (50) percent opaque at least six (6) feet high at time of planting.
- B. Bulk liquid storage provided that:

1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
5. All storage tanks shall be located in the rear yard not less than twenty-five (25) feet from any property boundary lines and setback one hundred fifty (150) feet from any adjoining residential zoning district. No tanks shall be permitted in the front yard or side yard abutting public rights-of-way.
6. Storage tanks shall be surrounded by twenty-five (25) feet of open area. Storage of any kind is prohibited in said open area, except equipment incidental to the storage tank. Approved parking must be set back ten (10) feet from any storage tank.
7. Storage tanks shall be set back from existing structures, as outlined in the Fire Code, based on tank size.
8. All bulk storage plans and processes shall be subject to review and approval of the Fire Department.
9. Storage tanks shall not interfere with site circulation, including but not limited to, parking, driveway, curb cuts, and loading areas.
10. A wire weave/chain link security fence shall be required around all storage tanks. The location of said fence shall be as per the Uniform Fire Code.
11. Storage sites shall be accessible by service and emergency vehicles.
12. All filling valves of the storage tanks shall be enclosed and have locking devices.
13. A warning sign shall be required for every tank and shall be placed in a conspicuous location, directly on the tank indicating a supplier's name, address, phone number, that highly flammable and dangerous material is stored therein, and that no smoking requirements must be observed or a sufficient warning to that effect. Said signage may not exceed four (4) square feet.
14. Provisions are made to control and minimize noise, air and water pollution.

- C. Planned Unit Developments (PUD) as regulated by Section 11 of this Ordinance.
- D. Placement and operation of outdoor wood burning furnaces subject to the following conditions:
1. Outdoor wood burning furnaces shall be located at least twenty-five (25) feet from all property lines.
 2. The outdoor wood burning furnace shall be located on a property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance for combustible materials.
 3. The outdoor wood burning furnace shall be located at least one hundred (100) feet from any building that is not served by an outdoor wood burning furnace.
 4. The chimney height of any new outdoor wood burning furnace shall extend at least two (2) feet above the peak of any building not served by an outdoor wood burning furnace within three hundred (300) feet.
- E. Animal hospital, clinic, kennels and shelters provided that:
1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.
 2. Animal carcasses are properly disposed of in a manner not utilizing on-site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
 3. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty (60) and seventy-five (75) degrees Fahrenheit.
 4. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
 5. Indoor animal kennel floors and walls shall be made of non-porous materials or sealed concrete to make it non-porous.
 6. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
 7. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.

F. Trade/specialty schools.

G. Mini self storage facilities provided that:

1. At least twenty-five (25) percent of the site is open green space and landscaped in accordance with a plan approved by the City Council.
2. No buildings shall be located closer than twenty-five (25) feet to each other to allow for parking, loading, driveway, and fire lanes.
3. No single building shall be greater than one hundred fifty (150) feet in length.
4. All structures are to be within two hundred (200) feet of a fire hydrant.
5. All driveways and parking areas are to be hard (blacktop or concrete) surfaced and adequate turning radius for fire truck maneuverability is to be maintained throughout the site. Designated snow storage space is to be provided to insure adequate and safe access during winter months.
6. Any structures having exposure to an adjacent residential use or public right-of-way, park, or similar public use areas shall be of vinyl, brick, natural stone, wood, or stucco facing material.
7. No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self storage, mini warehousing facility.

515-70-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.
- B. Telecommunication towers as regulated by Section 35 of this Ordinance.
- C. Temporary mobile towers as regulated by Section 35 of this Ordinance.

515-70-7: Lot Area and Setback Requirements.

Lot Area	24,000 square feet
Lot Width	100 feet
Front Yard Setback	40 feet
Side Yard Setback, internal lot	10 feet
Side Yard Setback, corner lot	20 feet
Setback from adjacent residential zoning	100 feet
Rear Yard Setback	30 feet

515-70-8: Building Height. No more than thirty (30) feet, however, building heights in excess of the prescribed standard may be permitted through a Conditional Use Permit, provided that:

1. The site is capable of accommodating any increased intensity of use.
2. Any increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
3. Public utilities and services are adequate.
4. The front and side yard setbacks shall be increased one (1) foot for every foot of height in excess of thirty (30) feet.

515-70-9: Building Requirements.

- A. Minimum Floor Area: Industrial and/or commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
- B. Exterior building elevations shall be as regulated in Section 17 of this Ordinance.

SECTION 71
I-2, GENERAL INDUSTRY DISTRICT

Section:

- 515-71-1: Purpose and Intent
- 515-71-2: Permitted Uses
- 515-71-3: Accessory Uses
- 515-71-4: Interim Uses
- 515-71-5: Conditional Uses
- 515-71-6: Uses by Administrative Permit
- 515-71-7: Lot Area and Setback Requirements
- 515-71-8: Building Height
- 515-71-9: Building Requirements

See Page 2.

515-71-1: Purpose and Intent. The purpose of the I-2, General Industrial District is to provide for the establishment of heavy industry and manufacturing development and use which because of the nature of the product or character of activity, requires isolation from residential and commercial uses.

515-71-2: Permitted Uses.

- A. Any use permitted in the I-1 District as regulated herein.
- B. The manufacturing, compounding, assembly, packaging, treatment or storage of the following products conducted within a building and consistent with all performance standards outlined in this Ordinance:
 - 1. Brewing; cement; stone cutting; brick; glass; wet or dry mill working; metal polishing and plating; paint (pigment manufacturing); vinegar works; rubber products; plastics; meat packing; flour, feed and grain milling; vegetable canning and processing; lime; gypsum and plaster of paris; and similar uses.
- C. Adult Establishments as regulated by Section 33 of this Ordinance.
- D. Warehousing and distribution facilities.
- E. Wholesale businesses.
- F. Tire vulcanizing and recapping.
- G. Major auto and truck repair.

515-71-3: Accessory Uses.

- A. Accessory buildings and structures not exceeding thirty (30) percent of the gross floor area of the principal building.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Off-street loading as regulated by Section 23 of this Ordinance.
- D. Off-street parking as regulated by Section 22 of this Ordinance.
- E. Signs as regulated by Section 37 of this Ordinance.
- F. Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.
- G. Brewery tasting rooms and product sales provided these do not occupy more than ten (10) percent of the site.

515-71-4: Interim Uses.

- A. ~~None.~~ DECOMMISSIONING, WHICH IS DEFINED AS THE SIGNIFICANT REMOVAL OF MACHINERY FROM SERVICE WITHIN A SITE, OR THE DEMOLITION OF EXISTING BUILDINGS, PAVEMENT, STRUCTURES OR FACILITIES, AND/OR SITE REMEDIATION FOR THE PURPOSES OF LEAVING A PROPERTY BARREN FOR AN UNSPECIFIED AMOUNT OF TIME. A SITE PLAN SHALL BE SUBMITTED AND IS SUBJECT TO SECTION 10 OF THIS ORDINANCE.

515-71-5: Conditional Uses.

- A. Coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing provided that:
 - 1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 - 2. A drainage system subject to the approval of the City Engineer shall be installed.
 - 3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.

4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 5. Provisions are made to control and minimize noise, air and water pollution.
- B. Storage, utilization or manufacture of materials which could decompose by detonation, including but not limited to dynamite, trinitrotoluene (TNT), nitroglycerine, guncotton, blasting caps and cartridge primers.
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 2. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
 3. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 4. Provisions are made to control and minimize noise, air and water pollution.
- C. Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses, provided that:
1. The use is screened by a fence or compact evergreen hedge which is at least fifty (50) percent opaque and at least six (6) feet high.
 2. Outside storage area is adequately surfaced to control dust and drainage.
- D. Kilns, forges or other heat processes fired by means other than electricity.
- E. Commercial stockyards and slaughtering of animals provided that the use complies with all Federal regulations including USDA rules and regulations.
- F. Placement and operation of outdoor wood burning furnaces subject to the following conditions:
1. Outdoor wood burning furnaces shall be located at least twenty-five (25) feet from all property lines.
 2. The outdoor wood burning furnace shall be located on a property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance for combustible materials.
 3. The outdoor wood burning furnace shall be located at least one hundred (100) feet from any building that is not served by an outdoor wood burning furnace.

4. The chimney height of any new outdoor wood burning furnace shall extend at least two (2) feet above the peak of any building not served by an outdoor wood burning furnace within three hundred (300) feet.
- G. Crude oil, gasoline, liquid fertilizer or other liquid storage provided that:
1. A drainage system is installed subject to the approval of the City Engineer.
 2. Provisions are made to control and minimize noise, air and water pollution.
- H. Refuse/garbage collection, recycling and incineration or reduction of waste material provided that:
1. The storage of refuse or garbage in the front yard shall be prohibited.
 2. Vehicle parking and storage areas are screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
 3. Vehicle parking/storage areas shall be hard surfaced with a bituminous material with curb and gutter to control dust and shall be screened from view of neighboring uses and public rights-of-way.
 4. The site shall be maintained free of litter and any other undesirable materials and will be cleaned of loose debris on a daily basis.
 5. Parking of commercial vehicles shall be subject to the provisions of Section 22 of this Ordinance.
 6. All in bound and out bound trucks and equipment, excluding employees' personal vehicles, shall be restricted to designated routes established by the City, except for times when providing collection service to customers within the City limits.
 7. The hours of operation shall be limited as necessary to minimize the effects of nuisance factors such as traffic, noise, and glare upon any existing neighboring residential uses, or residential zoning districts.
 8. Provisions are made to control and minimize noise, air and water pollution.
- I. Trucking terminals provided that:
1. Vehicular access points shall be located along arterial streets and shall be limited and designed and constructed to create a minimum of conflict with through traffic movement.

2. A drainage system subject to the approval of the City Engineer shall be installed.
 3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
 4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 5. Provisions are made to control and minimize noise, air and water pollution.
- J. Outdoor service, sale and rental as a principal or accessory use, provided that:
1. Outside services, sales and equipment rental connected with the principal use is limited to fifty (50) percent of the gross floor area of the principal use.
 2. Outside sales areas are fenced and screened from view of neighboring properties and public rights-of-way in accordance with Section 20 of this Ordinance.
 3. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or neighboring properties as regulated by Section 18 of this Ordinance.
 4. Sales area shall be hard surfaced to control dust and drainage.
- K. Recycling Centers.

515-71-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as s regulated by Section 35 of this Ordinance.
- B. Telecommunication towers as regulated by Section 35 of this Ordinance.
- C. Temporary mobile towers as regulated by Section 35 of this Ordinance.

515-71-7: Lot Area and Setback Requirements.

Lot Area	40,000 square feet
Lot Width	150 feet
Front Yard Setback	40 feet
Side Yard Setback, internal lot	10 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	30 feet
Setback from adjacent residential zoning	100 feet

515-71-8: Building Height. No more than thirty (30) feet, however, building heights in excess of the prescribed standard may be permitted through a Conditional Use Permit, provided that:

- A. The site is capable of accommodating any increased intensity of use.
- B. Any increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
- C. Public utilities and services are adequate.
- D. The front and side yard setbacks shall be increased one (1) foot for every foot of height in excess of thirty (30) feet.

515-71-9: Building Requirements.

- A. Minimum Floor Area. Industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
- B. Exterior Building Elevations.
 - 1. Structures with ribbed steel are approved in all Industrial Districts. For the distance of a minimum of three (3) feet above the natural ground line of the structure, it must be constructed with veneer or use of alternate material on the street side. The building plan must bear the signature of a structural engineer licensed as such by the State of Minnesota.
 - 2. Any structure in an Industrial District within three hundred (300) feet of Business TH 371, TH 210, TH 25, TH 18, Oak Street or County Road 3 shall comply with the Commercial exterior design standards as outline in Section 515-17-3 of this Ordinance.
 - 3. Accessory Buildings. Accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements of this Ordinance.
 - 4. In all zoning districts, mechanical equipment such as heating, ventilation, or air conditioning units located anywhere on the property shall be screened and painted to match the building exterior.
 - 5. Mechanical equipment such as heating, ventilation or air conditioning units shall be directed away from adjacent residential properties.

SECTION 72
MU, MIXED USE DISTRICT

Section:

- 515-72-1: Purpose and Intent
- 515-72-2: Permitted Uses
- 515-72-3: Accessory Uses
- 515-72-4: Interim Uses
- 515-72-5: Conditional Uses
- 515-72-6: Uses by Administrative Permit
- 515-72-7: Setback Requirements
- 515-72-8: Building Height
- 515-72-9: Building Design and Exterior Performance Standards
- 515-72-10: Minimum Parcel Size

515-72-1: Purpose and Intent. The purpose of the Mixed Use zoning district is to permit property characterized by its historical character and context to be (re)developed with industrial, commercial and service uses in a planned manner that will maintain the sites historic character and context. This district will allow latitude in permitting and encouraging diversity in land uses and permitting variation and imagination in the relationship of uses in the district.

515-72-2: Permitted Uses.

All uses allowed as permitted uses and conditional uses in B-4 (General Business), B-5 (Commercial Amusement) and I-1 (Light Industrial) zoning districts.

515-72-3: Accessory Uses.

All accessory uses allowed in B-4 (General Business), B-5 (Commercial Amusement) and I-1 (Light Industrial) zoning districts.

515-72-4: Interim Uses.

DECOMMISSIONING, WHICH IS DEFINED AS THE SIGNIFICANT REMOVAL OF MACHINERY FROM SERVICE WITHIN A SITE, OR THE DEMOLITION OF EXISTING BUILDINGS, PAVEMENT, STRUCTURES OR FACILITIES, AND/OR SITE REMEDIATION FOR THE PURPOSES OF LEAVING A PROPERTY BARREN FOR AN UNSPECIFIED AMOUNT OF TIME. A SITE PLAN SHALL BE SUBMITTED AND IS SUBJECT TO SECTION 10 OF THIS ORDINANCE.

515-72-5: Conditional Uses.

- A. Outdoor storage as a principal use provided that:
1. All storage is screened from view of neighboring uses and public rights-of-way via a fence or green belt planting strip or combination thereof in compliance with Section 20 of this Ordinance.
 2. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
 3. All lighting will be in compliance with Section 18 of this Ordinance.
 4. The storage area is fenced and secured as regulated by Section 19 of this Ordinance.
 5. The storage area is paved or surfaced to control dust and erosion.
 6. All parking, loading and truck staging activities shall occur on site. On-street parking and loading associated with the use is prohibited.
 7. Noises emanating from the use are in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations MPC 7030.
- B. The manufacturing, compounding, assembly, packaging, treatment or storage of the following products conducted within a building and consistent with all performance standards outlined in this Ordinance:
brewing; cement; stone cutting; brick; glass; wet or dry mill working; metal polishing and plating; paint (pigment manufacturing); vinegar works; rubber products; plastics; meat packing; flour, feed and grain milling; vegetable canning and processing; lime; gypsum and plaster of paris; and similar uses.
- C. Tire vulcanizing and recapping.
- D. Major auto and truck repair.
- E. Kilns, forges or other heat processes fired by means other than electricity.
- F. Recycling Centers.
- G. Outdoor Service Sales and Rentals.

515-72-6: Uses by Administrative Permit.

All uses allowed in B-4 (General Business), B-5 Commercial Amusement and I-1 (Light Industrial) zoning districts.

515-72-7: Setback Requirements.

All structures shall be the same distance as existing structures or thirty (30) feet whichever is greater from any exterior boundary line.

515-72-8: Building Height.

Not more than forty-five (45) feet unless otherwise granted under a Conditional Use Permit.

515-72-9: Building Design and Exterior Performance Standards.

All new buildings and building additions shall be designed to be compatible with existing buildings. Exterior materials on new buildings and building additions shall be compatible with exterior materials on existing buildings.

515-72-10 Minimum Parcel Size

Ten (10) acres.

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner *MO*

DATE: January 3, 2014

RE: Brainerd Hotel Future Use

Since the closing of the Brainerd Hotel in October 2013 there have been inquiries about the zoning and how the property can be used. Most recently the owner has contacted the Planning Department about the property's future. There has been some interest about use of the facility for extended stay living. Extended stay is a service that many motels offer. During conversation with the owner I learned that the Brainerd Hotel has offered that service.

Although extended stay has been offered it has not been a use that has been acknowledged by the City of Brainerd. Extended stay is an accepted and common hotel and motel service, however our definition of motel and hotel do not, nor does the list of B-4 (General Commercial) District uses list extended stay as a permitted use.

Hotel and motel are defined as:

Hotel.** An establishment offering **transient* lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character.

**Webster defines transient as passing through or by a place with only a brief stay or sojourn.*

***Motel.** A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used exclusively for the accommodation of automobile travelers and other temporary guests.*

In my discussion with the property owner we talked about the definition of "extended stay." It sounded as if in addition to the extended stay associated with hotels and motels, the owner desires to also include the option for apartments. It is this interpretation of extended stay that raises concerns.

Based on the probability that the property has little likelihood of being a hotel or motel as it had been in the past, I offered that the City of Brainerd is most willing to assist in exploring options to permit additional use of the property. The difficulty comes when

trying to accommodate commercial extended stay hotels and motels in the same zoning district as residential use apartments. The additional concern is the potential that the life style anticipated with the residential use envisioned is one that could create an environment for transient housing.

Attached is some information from other communities related to extend stay hotels and motels. At a minimum, a discussion about expanding their definitions to permit extended stay could occur. Attached is an email from the property owner describing his desires for the property. The challenge will be should the owner desire both an extended stay hotel and extended stay apartments.

Mark Ostgarden

From: Doug Larson <larsonenterprises@sbcglobal.net>
Sent: Friday, January 03, 2014 10:41 AM
To: Mark Ostgarden
Subject: Brainerd Hotel and Conference Center

Dear Mr. Ostgarden:

As I indicated in our recent telephone conversations, I am the owner of the now closed Brainerd Hotel and Conference Center. I am offering the facility for sale at a price significantly less than the mortgage I owe on it.

I have interest from a purchase prospect, who wants to operate the facility as a regular hotel, as well as an extended stay hotel. Some kitchens would be installed in the extended stay rooms which would be similar to thousands of extended stay hotels across the country. Extended stay rooms could still be used as regular over-night rooms as demands change over time.

As I have informed you, the hotel has already served as an extended stay hotel over the years, with many users staying 6 to 12 months, and occasionally longer. I believe this usage continues to be permitted under the grandfathering section of the Brainerd Zoning Ordinances. Also, many of our rooms already have mini-refrigerators and microwaves in them.

My request is that the hotel continues to be able to operate as we already have. However, it would also be desirable to add a definition for extended stay hotel to the zoning ordinance. This definition would provide for a long-term stay in a room or suite having a kitchen component. Extended stay hotel would be included in the definition of hotel, with all the remaining licensing and inspections remaining the same. I would appreciate this request to be expedited as soon as possible so the prospective purchaser can close the sale and re-open the facility which I hope everyone agrees would be very desirable for the City of Brainerd.

Thank you,

Douglas A. Larson
Covenant Hospitality, LLC
PO Box 636
Menomonie WI 54751
715-556-0244



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, PhD, FAICP, Community Development Director

DATE: January 16, 2012

SUBJECT: An Ordinance Revising Section II-3 (Definitions) and Section V-11 (Occupancy Standards) of the Urbana Zoning Ordinance Regarding Hotels and Motels – Plan Case No. 2165-T-11)

Introduction

The Zoning Administrator, at the request of the City of Urbana's Building Safety Division and Fire Chief, is requesting amendments to Section II-3 (Definitions) and Section V-11 (Residential Occupancy Limits) of the Urbana Zoning Ordinance concerning the definition of and time limits for occupancy of hotels and motels. The purpose of these amendments is to insure that longer term occupancy of hotel and motel units comply with applicable housing, building, and occupancy codes. In this way, the City can also insure that hotels and motels do not become substandard apartment buildings.

The Urbana Zoning Ordinance definition of Hotel or Motel now limits occupancy of any guest to no more than 30 consecutive days. The proposed amendment would allow extended stay hotel/motel units so long as they meet residential building and fire code requirements such as having kitchen facilities and adequate electrical service. This amendment would also allow hotel managers to reside on the property in units complying with residential building and fire codes. The proposed amendment would also modernize the definition of hotel or motel to include ancillary facilities such as restaurants and meeting rooms.

The Urbana Plan Commission held a public hearing concerning this case at their February 9, 2012 meeting. City staff notified all sixteen hotels, motels, and beds-and-breakfast within Urbana of the application and public hearing. No one from the public spoke either for or against the application. Following the public hearing, the Plan Commission voted 6-ayes and 0-nays to forward this to the Urbana City Council with a recommendation for approval.

Background

On June 7, 1999, the Urbana City Council approved Ordinance No. 1999-06-045 which in part redefined “Hotel or Motel” in the Urbana Zoning Ordinance as follows. This definition remains in effect today.

“Hotel or Motel: A building in which lodging, or lodging and meals, is regularly provided and offered to the public for a period of less than 30 consecutive days for compensation, and which is customarily open to transient guests. An establishment that is subject to state hotel/motel tax and is required to have a Certificate of Registration from the Department of Revenue shall be considered a hotel or motel.”

The changes adopted in 1999 imposed a 30-day limit on occupancy of hotels or motels and tied the definition to the Illinois Hotel Operators’ Occupation Tax Act (35 ILCS 145). The impetus for this redefinition, as based on the case file documentation, was to allow better City enforcement against apartments being rented as hotel or motel units. Hotels and motels are prohibited in residential zoning districts, but enforcement was made difficult by the definition of Hotels and Motels in place at that time. Further, this form of use is no longer evident in Urbana.

Through periodic discussions with business operators in Urbana, City staff has been informed that, for most hotels and motels, allowing extended stay is a small yet important component of their industry. They indicated a need to be able to serve guests such as construction workers, university researchers and scholars, executive relocations, and even families waiting for their homes to be rebuilt after a fire. The proposed amendment would help to accommodate this need.

The City of Champaign does not have any occupancy time limits enacted for occupancy of hotels and motels.

Discussion

The current Zoning Ordinance definition of “hotels and motels”, as adopted in 1999, presents several problems as summarized below.

- *Regulations within definitions.* For practical and legal reasons, zoning standards should not be included in zoning definitions. Time limits for occupancy better belong elsewhere in the Zoning Ordinance. Second, the City’s current definition of Hotel or Motel references the Illinois Department of Revenue’s definition, which was written for tax collection purposes. The Illinois Hotel Operators’ Occupation Tax Act definition defines any occupancy over 30 consecutive days as “permanent residents” who are exempt from the state hotel/motel tax.
- *Extended stay units.* The 30-day occupancy limit does not take into account legitimate needs for extended occupancy. Hotel and motel operators in Urbana have indicated that extended stay is a small yet vital need for their businesses. Guests needing to stay for

longer than 30 days vary from construction workers to visiting university researchers and scholars to families waiting for their home to be rebuilt after a fire. The current definition offers no opportunity for extended stay units.

- *Site manager residences.* The definition does not recognize the practice of hotel managers living on site. These are often family-run motels with limited staff who need to staff the lobby around the clock.
- *Ancillary facilities.* The current definition of Hotel or Motel does not reflect the modern range of uses expected for full-service hotels, including restaurants, swimming pools and gyms, laundry facilities, and conference centers and meeting rooms.

Despite the drawbacks of having a 30-day occupancy limit for Hotels and Motels, it does serve the important public purpose of preventing hotels and motels from becoming substandard apartments. In several key respects, hotels and motels are not customarily designed to meet residential building and fire code standards. First, few hotel/motel rooms have full kitchens. Under City codes, residential dwelling units must have full kitchens, including a sink, stove, and refrigerator. Second, the electrical service provided in hotel/motel rooms is below that required by code for residences. Long-term residents of hotels/motels tend to plug in electrical appliances such as hot plates and heaters and run extension cords which create fire hazards. This can be exacerbated by improper storage of personal and household belongings in hotel rooms lacking such storage space.

Given the dual needs for extended stay hotel/motel rooms and residential code compliance, City staff proposes to amend the Urbana Zoning Ordinance to keep the 30-day occupancy limit for standard hotel/motel rooms but to allow longer occupancy for extended stay units which comply with the residential building and fire codes. This would allow hotel or motel operators to install full kitchens and upgrade the electrical service for units to be rented for extended periods. Both the Urbana Building Safety Manager and Fire Chief have requested this amendment to allow upgrading of hotel/motel units which are intended for extended stay occupancy.

Text Amendment

The proposed changes to the Zoning Ordinance are indicated below with ~~striketroughs~~ indicating deleted wording and underlines indicating added wording.

Section II-3, Definitions

Extended Stay Unit: A hotel or motel unit with accommodations for sleeping along with in-unit full kitchen and bathroom facilities. See Section V-11 for occupancy limits and building code standards for extended stay units.

"Hotel or Motel: A building providing transient lodging accommodations to the general public for compensation and which may include ancillary facilities and services such as restaurants, meeting

~~rooms, entertainment, personal services, and recreational facilities. See Section V-11 for occupancy limits for hotel or motel units. A building in which lodging, or lodging and meals, is regularly provided and offered to the public for a period of less than 30 consecutive days for compensation, and which customarily open to transient guests. An establishment that is subject to state hotel/motel tax and is required to have a Certificate of Registration from the Department of Revenue shall be considered a hotel or motel. (Ord. No. 1999-06-045, 06-11-99)"~~

Section V-11. Residential Occupancy Limits.

F. Occupancy of any hotel or motel, or bed and breakfast inn, by any individual shall be limited to no more than 30 consecutive days; provided that such occupancy shall be allowed for more than 30 days within extended stay units as defined in Section II-3 and which comply with the City of Urbana adopted residential building and fire codes, as amended.

Recommended Findings

1. The proposed amendment to Section II-3 of the Urbana Zoning Ordinance will amend the definition of Hotel or Motel and create a new definition for Extended Stay Unit.
2. The proposed amendment to Section V-11 of the Urbana Zoning Ordinance will preserve the occupancy time limit for hotels, motels, and bed and breakfast inns to no more than 30 consecutive days but would allow extended stay units meeting residential building and fire standards to be occupied for more than 30 days.
3. In furthering the Purposes (Section I-1) of the Urbana Zoning Ordinance, the proposed Zoning Ordinance text amendment is intended to provide adequate safety from fire and other dangers; to conserve the value of buildings; to promote the public health, safety, comfort, morals, and general welfare; to preserve the character of Urbana neighborhoods; and to fix regulations and standards to which buildings, structures, or uses shall conform.
4. The proposed amendment is intended to serve the needs of the Urbana business community and recognize changes in the hotel/motel industry.
5. The proposed amendment is intended to improve public safety and insure compliance with minimum housing standards adopted by the community.
6. The proposed amendment conforms to notification and other requirements for the Zoning Ordinances as required by the State Zoning Act (65 ILCS 5/11-13-14).
7. At their February 9, 2012 meeting, following the public hearing, the Urbana Plan Commission recommended 6-ayes and 0-nayes to recommend approval of this application.



ZONING ORDINANCE
DIVISION 708
DISTRICT STANDARDS AND PERMITTED USES

712.03 Extended stay facilities

- A. Extended Stay Hotels or Motels shall be defined as any hotel or motel in which fifty percent or greater of all guest rooms have facilities for both the storage, refrigeration, and preparation of food, and/or which are advertised, designed, or utilized for weekly or monthly occupancy.
- B. A Special Land Use Permit must be obtained for the construction and operation of Extended Stay Hotels and Motels and may only be permitted in OS, OHR, and RRC zoning districts; furthermore, Extended Stay Hotels and Motels shall comply with the following restrictions:
1. All guest rooms which have facilities for both the storage and preparation of food and have less than 300 square feet of floor area are limited to a maximum of 2 persons per such room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowable per each additional 75 square feet of floor area up to and including a maximum of 4 persons.
 2. Minimum lot size for extended stay hotels is two acres.
 3. No more than 10 percent of individual guests shall register, reside in, or occupy any room or rooms within the same licensed facility for more than a 90 day period.
An indoor or fenced outdoor active recreation area shall be provided. The size of each recreation area shall be calculated at a ratio of 5 square feet per room with a minimum provision of 750 square feet. All recreation areas must be approved by the Planning and Zoning Director prior to development to ensure that all applicable safety specifications and standards are met.
 4. No permanent business license shall be issued for the conduct of any business from any guest room of the facility.
 5. No hotel or motel under this section is to be converted to or used as an apartment or condominium without prior approval of City Council. Any hotel or motel converted to such use must meet all applicable state and local codes including zoning standards.
 6. No hotel or motel or other structure can be converted to an extended stay facility without meeting all of the rules and regulations contained within 712.03 and must obtain a Special Land Use Permit from City Council, as mentioned in 712.01.
 7. Extended stay hotels/motels must have a landscape plan submitted, approved, and constructed prior to issuance of a business license.
 8. Extended stay hotels/motels must have a minimum of 25% of the lot area dedicated to either active or passive open space. The open space shall include active recreation, such as a children's playground area, and/or passive recreation, such as greenspace and walking paths.
 9. Each guest room must be protected with a sprinkler system approved by the fire marshal or their designee.
 10. Each guest room having a stove-top unit or other type burner unit shall be required to also include a maximum 60 minute automatic power off timer for each such unit.
 11. A hard-wired smoke detector shall be provided and installed in each guest room.
 12. No outside storage or permanent parking of equipment or vehicles shall be allowed.
 13. All such facilities shall provide a 50 foot undisturbed buffer from any property zoned for multi family residential purposes and/or a 100 foot undisturbed buffer from any property zoned for single family residential purposes.
 14. No building may be placed within 300 feet of any residentially zoned property, inclusive of the required buffer.
 15. These restrictions shall apply to all facilities permitted or expanded after September 8, 2004.
 16. All extended stay facilities shall have a maximum density of 75 guest units per gross acre of development.

**CITY OF SAGINAW, TEXAS
ORDINANCE NO. 2013-04**

AN ORDINANCE AMENDING THE ZONING REGULATIONS OF THE CITY OF SAGINAW, TEXAS; PROVIDING FOR REGULATIONS GOVERNING HOTEL/MOTEL OCCUPANCY LIMITS; REVISING THE DEFINITIONS OF "HOTEL/MOTEL" AND "EXTENDED-STAY HOTEL/MOTEL"; AMENDING THE PERMITTED USE TABLE GOVERNING WHERE EXTENDED-STAY HOTEL/MOTELS ARE PERMITTED; PROVIDING A DEADLINE FOR COMPLIANCE WITH THE REGULATIONS SET FORTH HEREIN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Saginaw heretofore adopted the Zoning Regulations of the City of Saginaw, which regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

WHEREAS, the City Council of the City of Saginaw deems it necessary in order to lessen congestion on streets, to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewers, schools, parks and other public requirements; to conserve the value of property and encourage the most appropriate use of land throughout the City, that the hereinafter contained provisions of this ordinance should be passed, promulgated and enforced; and

WHEREAS, the Planning and Zoning Commission of the City of Saginaw, Texas held a public hearing on February 12, 2013, and the City Council of the City of Saginaw, Texas held a public hearing on February 19, 2013, with respect to the amendment described herein;

WHEREAS, the City of Saginaw, Texas has complied with all requirements of Chapter 211 of the Local Government Code, and all other laws dealing with notice, publication and procedural requirements for the adoption of these zoning regulations; and

WHEREAS, the City Council finds that the regulations contained herein are necessary to ensure the continued availability of transient lodging within the City of Saginaw and to ensure the continued use of hotels and motels in the manner intended at the time of adoption of the Zoning Ordinance; and

WHEREAS, the City Council further finds that the regulations are necessary to discourage transient lodging properties from becoming permanent residences; and

WHEREAS, the City Council further finds that a 180 day compliance period, with respect to the regulations set forth herein, is reasonable and in the best interest of the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:

SECTION 1.

That Appendix A of the Code of Ordinances, the Zoning Regulations of the City of Saginaw, Texas, Section 5-1, "Permitted Use Table," is hereby amended by permitting the use "Extended Stay Hotel/Motel" by Specific Use Permit only in the Neighborhood Commercial and Community Commercial zoning districts, as follows:

A G	SF 1	SF 2	SF 3	SF 4	SF A	D X	ZL L	M H	MF 1	MF 2	Land use Designation	O P	N C	C C	C F	L I	H I	Supplemental Conditions
COMMERCIAL, RETAIL, AND SERVICE USES																		
											Extended-Stay Hotel/Motel		S	S				2, 7

SECTION 2.

That Appendix A of the Code of Ordinances, the Zoning Regulations of the City of Saginaw, Texas, is hereby amended by adding a section, to be numbered 8-17, which said section reads as follows:

"Sec. 8-17 Hotel/Motel Occupancy Limits.

A. *Purposes and Findings.* The purpose of this Section is to ensure the continued availability of transient lodging within the City of Saginaw and to ensure the continued use of hotels and motels in the manner intended at the time of adoption of the Zoning Ordinance of the City of Saginaw.

B. *Limitation on Continuous and Cumulative Occupancy of Hotels and Motels.* It shall be unlawful for any hotel or motel to rent or let, or otherwise provide, any room therein to any person, firm, partnership, corporation, association or other business entity for thirty (30) or

more consecutive days, or for more than sixty (60) total days in any one hundred and eighty (180) consecutive day period, unless such hotel or motel is an Extended-stay hotel/motel. It is the intent of this section that if a room is rented, let or otherwise provided to any party for either of the maximum time periods allowed by this section, then such room may not again be rented, let or otherwise provided to that same party or to any individual, firm, or entity that was a member of said party.

1. Each hotel and motel shall maintain daily written records reflecting the renting, letting, or other provision of any of its rooms, including but not limited to, check-in and check-out dates of each person over 18 years of age who rents, lets, or is otherwise provided a room or occupies a room on an overnight-basis. Unless payment for the room is made by check or credit card, such records shall also include the name and home or business address and telephone number of each such person. The required records shall be maintained for no less than one year, or for such longer period as may be prescribed by law, and shall be available for review by City representatives during normal business hours.
 2. Except as otherwise provided by law, each hotel and motel shall post a legible copy of the text of this Section 8-17 (B) in an open and conspicuous place within the public lobby area, and in an open and conspicuous place where other postings are required by law, in each room available for rent.
 3. Any property left in a room by a person or party that has checked out shall be removed by the operator of the hotel or motel and stored or otherwise disposed of in accordance with applicable laws.
- C. *Extended-stay hotel/motel.* Each Extended-stay hotel/motel room intended or designed to be used, or which are used, rented, or hired out to be occupied by the public must contain kitchen facilities for food preparation including, but not limited to, facilities such as refrigerators, stoves and ovens."

SECTION 3.

That Appendix A of the Code of Ordinances, the Zoning Regulations of the City of Saginaw, Texas, is hereby amended by amending the definitions of "Extended-stay hotel/motel" and "Hotel, Motel" to read as follows:

"* * * *

Extended-stay hotel/motel. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by transient guests, including for stays in excess of the thirty (30) consecutive days, or for more than 60 total days in any 180-consecutive day period, and contain kitchen facilities for

food preparation including, but not limited to, facilities such as refrigerators, stoves and ovens.

* * * *

Hotel, motel. A building or portion thereof in which ten or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by transient guests for a period of less than thirty (30) consecutive days, or for less than sixty (60) total days in any one hundred and eighty (180) consecutive day period, for compensation.

* * * *

SECTION 4.

All hotel/motels and Extended-stay hotel/motels existing upon the effective date of this ordinance shall have One Hundred and Eighty (180) days from the effective date of this Ordinance to either cease operation or fully comply with all provisions of this Ordinance.

SECTION 5.

This Ordinance shall be cumulative of all provisions of ordinances and of the Saginaw City Code and Zoning Regulations as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment of decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the

meters) long, lying farthest from the front lot line and wholly within the lot.

- (10) **LOT LINE, SIDE:** a side lot line is any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.
- (11) **A MAJOR THOROUGHFARE:** is any street with an existing or proposed right-of-way of one hundred and twenty (120') feet (36.6 meters) or more.
- (12) **MECHANICAL AND ELECTRICAL AMUSEMENT DEVICE:** any machine which, upon the insertion of a coin, slug, token, plate, or disc or any charge thereof, may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical or electrical machines, and all games, operations, or transactions similar thereto under whatever name they may be indicated and in accordance with the provisions of Chapter 81, Recreation, Amusements and Games, Section 7.286 and Section 7.287 of the Southfield City Code. (Amended - Ordinance 1062 - 7/6/81)
- (13) **MOBILE HOME:** a structure designed or used for residential occupancy built upon, or having, a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached or is supported by blocks or skirted.
- (14) **MOTEL:** a building or buildings of attached, semidetached or detached rental units, containing a bedroom and a bathroom, designed for overnight lodging and which may not be used as a domicile. The term motel may include rooms with cooking facilities, suites, motor courts, tourist courts, motor lodges, residence inns, or residence hotels which lack the full service requirements of a hotel in Section 5.6 (5) (Amended - Ordinance 1220 - 2/26/87; Amended - Ordinance 1434 - 9/24/98).

5.8 Definitions (N-S) (Amended - Ordinance 1336 - 6/8/92)

- (1) **NONCONFORMING BUILDING:** a building or portion thereof lawfully existing at the effective date of this Chapter, or amendments thereto, that does not conform to the provisions of this Chapter and/or the use regulations of the district in which it is located.
- (2) **NONCONFORMING USE:** a use which lawfully occupied a building or land at the time this Chapter, or amendment thereto, became effective, that does not conform to the provisions of this Chapter nor to the use regulations of the district in which it is located.

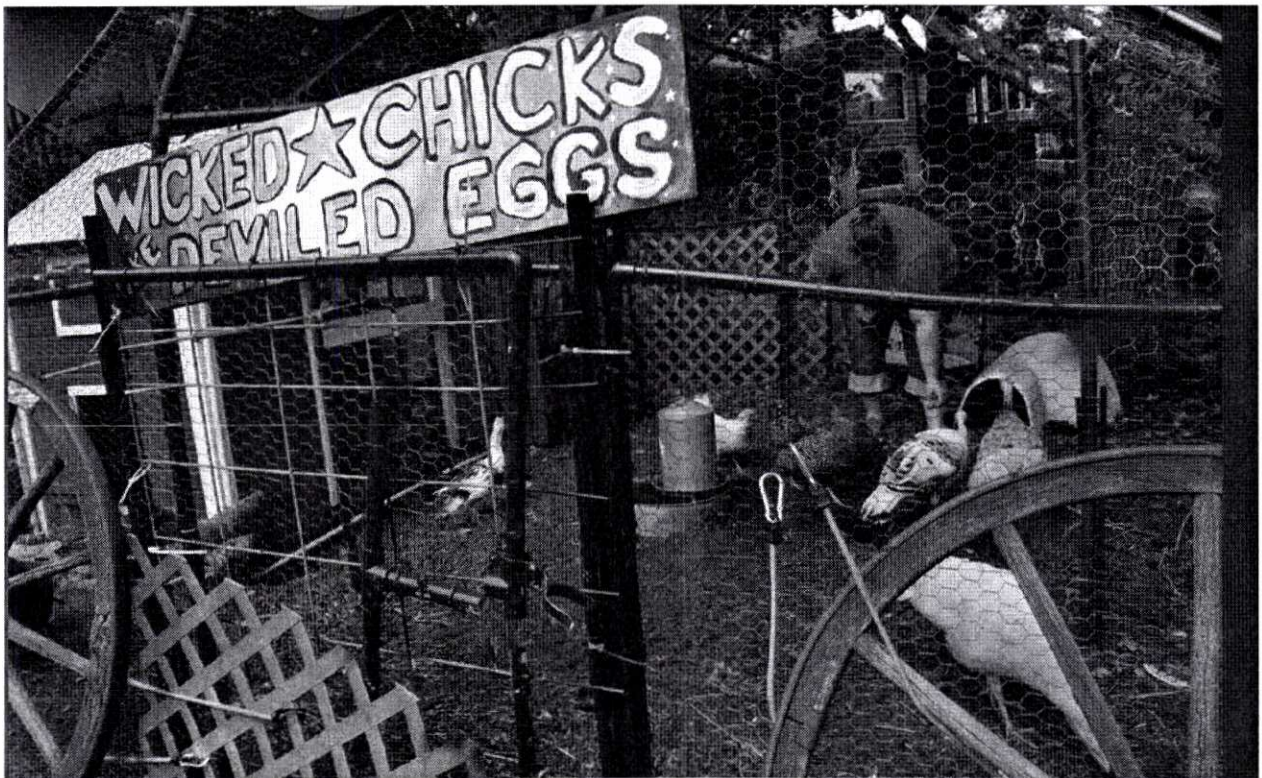
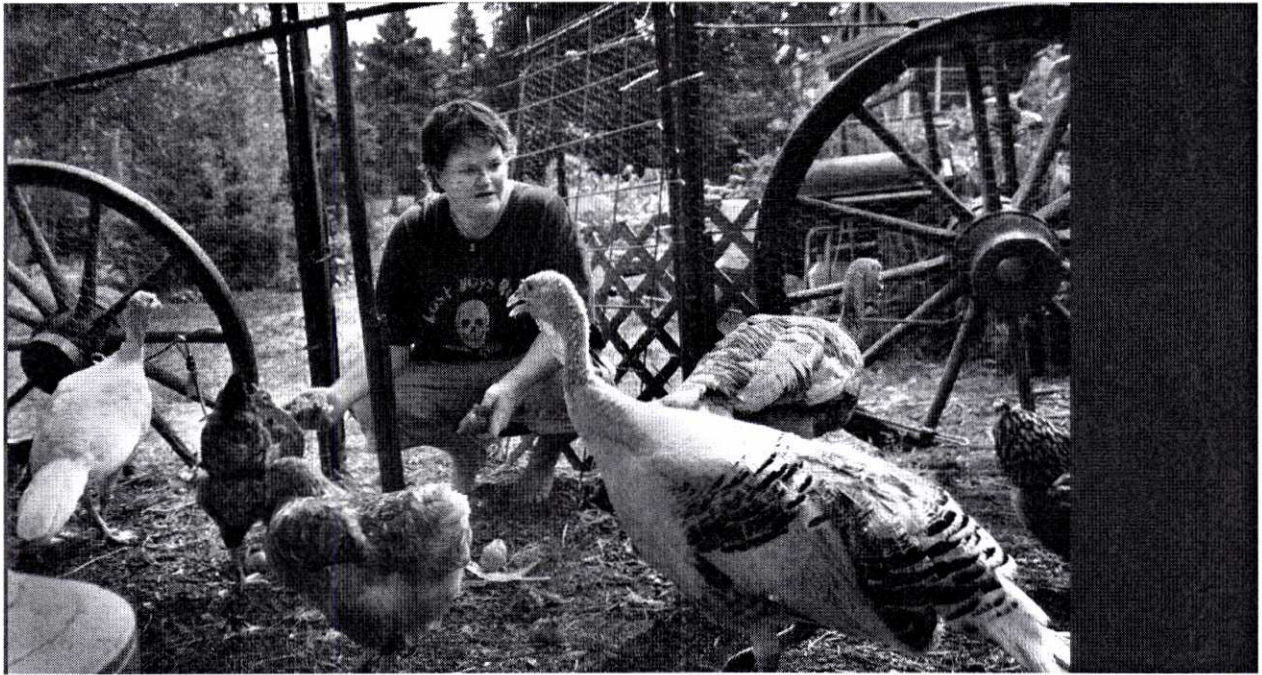
New Brighton backyard farm sows seeds of discord

By Sarah Horner

shorner@pioneerpress.com

Posted: 09/22/2013 12:01:00 AM CDT | Updated: about 19 hours ago







Kristie Kellis feeds tomatoes to chickens, ducks and quails at Lost Boys Acre urban farm in New Brighton on Wednesday, August 28, 2013. Sparked by a debate between neighbors, the farm is at the center of a communitywide conversation about urban farming. (Pioneer Press: Jean Pieri)

From the front, nothing about the house in suburban New Brighton appears that different.

A car sits in the driveway near a flower bed of towering magenta amaranth plants. A small pirate flag waves from atop a picnic table, a nod to the "Peter Pan"-inspired name the women who live here gave the half-acre property when they moved in seven years ago.

Behind the one-story house, however, is a different scene.

There, you see sprawling vegetable gardens, berry plants, bee hives and lots of fowl. A large coop extends from the back deck and houses about 15 laying hens, a dozen quail, a few heritage turkeys, a couple ducks and one Serama rooster. A basket brimming with vegetables sits on a table near a garden bed. Next to it is a bowl full of multicolored eggs.

The collection represents a day's harvest at "Lost Boys Acre," an experimental urban farm operated by four women in the quiet residential neighborhood near Silver Lake Road and Interstate 694.

What you don't see is the tension with their next-door neighbors, a couple in their 70s who have lived in their house for nearly 30 years, allegations of dishonesty and bullying traded between the two households.

The dispute has spilled into New Brighton City Hall with complaints issued to staff and police. Kristie Kellis, 38, the registered owner of the house at 715 Forest Dale Road, said she has contacted the Minnesota Department of Human Rights as well. State officials, however, cannot confirm active complaints.

While the city hasn't tracked the cost of the complaints in terms of staff hours, it has taken up substantial resources.

Next-door neighbors Bob and Gerry Parrott say the women's farming is out of control and highly disruptive.



[See additional gallery images here.](#)



"We can't really enjoy our back yard anymore; it just depends which way the wind is blowing," Parrott said. "And then there's the noise. Have you ever heard a chicken laying an egg? It's like a woman in labor, and they have about 20 laying hens."

The Parrotts also cite concerns about runoff into a pond behind their house, as well as unsightliness from the way the women maintain the property.

Complaints to the city started about the time the birds arrived. Although staff can't disclose the names of complainants, 11 reports are on file related to Lost Boys Acre, according to information provided by New Brighton City Manager Dean Lotter.

Some six reports have been filed with police.

Only once were the women found to be in violation of city code, when a vehicle was parked on an unapproved surface, according to city records.

"Part of the problem here is perspective," Jacobsen said. "City staff don't have a calibrated nose to tell what the degree of odor is or how noisy it is at all hours. ... There's a lot of gray area here."

OTHER ISSUES?

To Kellis, the lack of violations is proof the Parrotts' beef with her and her housemates goes deeper. She suspects the couple's real issue is their non-nuclear family and religious beliefs.

Two of the women practice paganism. Kellis says she follows "Earth-based spirituality."

Kellis points to a time when Gerry Parrott called police claiming a garden statue on the Lost Boys Acre property was an attempt by the women to "point demons at her," Kellis said.

"They won't give us one specific thing we can do differently. ... I can negotiate with a specific problem, but they won't give me one," Kellis said. "They just hate us."

While acknowledging his wife's comment showed "ignorance," Bob Parrott said allegations of bias are attempts to distract from the real issue.

"We're talking about backyard farming and what is reasonable for a residential area," Parrott said. "We're not opposed to it altogether, but to have 20 laying hens, a rooster, plus ducks, quail and turkeys seems way beyond what one household needs. They're basically running a large poultry business."

A mediation attempt between the neighbors last winter was unsuccessful. Each side claims the majority of other residents in the neighborhood support them.

Other neighbors surveyed by the Pioneer Press were split.

Kellis says the Parrotts are unreasonable and that her property is well maintained. Furthermore, she says it's within her legal rights as a New Brighton resident to operate an urban farm.

Although New Brighton

Submit Query

Urban farming

has a nuisance ordinance, the city has no specific rules regulating the keeping and raising of fowl or other practices associated with farming within its city limits.

Some 60 residents are said to be engaged in the practice to varying degrees.

Prompted by the conflict -- now in its second year -- the city recently assembled a task force to study how other communities have tackled urban farming, an increasingly popular practice in Minnesota and elsewhere. The committee is expected to make recommendations to the city council next spring.

"We are not looking for this thing to spread," New Brighton Mayor Dave Jacobsen said of the Forest Dale Road conflict. "We hope the task force can clarify what is reasonable for urban farming before this issue turns our city into a battleground."

IN CONFLICT

On a recent tour of Lost Boys Acre, Kellis points out vegetables growing in one of the many backyard gardens.

Most of them are planted in raised beds, but this year the women also planted in straw bales to honor the "experimental" part of their mission. The decision to raise quail was prompted by the same desire, Kellis said.

"We experiment with what can be done in a suburban environment so we can educate other people about what works," Kellis said. She added that it's increasingly important for people to rethink how they get their food.

The food they produce feeds Kellis and her three housemates as well as five other families who volunteer at Lost Boys Acre, she said. Additional food is shared with neighbors and friends.

No money exchanges hands, Kellis said, adding that three of the women in the house have full-time jobs.

Lost Boys Acre started raising birds about two years ago. Kellis describes the animals as relatively quiet and says odor is regulated through the use of a "deep litter" composting method.

Bob Parrott disagrees.

"A part of me is excited because this could allow for a really progressive conversation about food policy that could make New Brighton a leader," Kellis said. "But it worries me that the council's goal is regulation and they want to specifically target chickens."

Bob Parrott said he hopes restrictions are coming; otherwise, he says he and his wife will move.

"We're both 70 years old. How many years do we have left and what kind of enjoyment are we getting out of a place if we continuously have the issue of noise and the occasional smell?" he said.

Lost Boys Acre will be around regardless of the outcome, Kellis said.

"If every time someone tried to do something new ... they just walked away when it got hard, we would never have change," Kellis said. "Someone has to stand up to bullies."

"I'd say we're the ones being bullied," Bob Parrott said.

"They have a lot going on there, but it seems clean and well cared for," said Chuck Hoffman, who lives down the street. "They're raising healthy food, which is hard to get at grocery stores these days."

"It's easy to be OK with it if you don't live next door," said Nancy Nygaard, another neighborhood resident. "I wouldn't want them as my neighbor. They've got too many things going on that don't belong in this area."

The women's other next-door neighbor couldn't be reached for comment.

ELSEWHERE

The city does not expect the task force to solve the dispute, Lotter said.

"If the council passes no ordinance and chooses not to regulate anything, the conflict will continue. If the council adopts something very draconian ... the conflict will continue. There is no way to legislate an answer for people who don't want to get along," the city manager said.

Instead, the hope is the task force will help head off future problems with what is seen as a growing trend in urban communities, Lotter said.

Members will spend the winter studying the issue with hopes of making recommendations to the city council in the spring.

Cities across the metro area have approached the subject differently.

Some -- Blaine, White Bear Lake and Coon Rapids -- ban keeping chickens. Shoreview allows up to four birds on properties smaller than 2 acres. Maplewood permits 10 with a permit as long as 100 percent of neighbors are on board. St. Paul requires 75 percent of neighbors sign off, though it places no cap on the number of chickens allowed. Minneapolis also regulates raising chickens.

It's possible New Brighton will keep urban farming unrestricted, said Char Samuelson, a city council member.

"Who knows? We need to study it and see what our residents want," Samuelson said.

Other council members did not respond to calls for comment.

Neither the Parrotts nor the women from Lost Boys Acre were allowed on the task force, a decision Kellis said shows bias on the city's part.

Both sides will watch what happens closely.

Rock the Vote

They hold tremendous influence—more than half the nation's voting-age population is now over 45—but baby boomers and their role at the polls are a bit hard to pin down.

About a year ago, the Center for Colorado's Economic Future at the University of Denver sent a small shudder through the state Capitol. The center's analysts, who'd been asked by the Legislature to delve into the fiscal sustainability of state government, declared that Colorado was speeding toward a brick wall.

"Twelve years from now," they wrote, "Colorado will generate only enough sales, income and other general-purpose tax revenue to pay for the three largest programs in the General Fund—public schools, health care and prisons." In other words, if nothing changes, taxpayers' money will be eaten up by the young, old and poor, as well as by housing for criminals. Everything else—public higher education, courts, child welfare, roads, bridges and other basic state services—will have to go begging.

By Rob Gurwitt



GETTY IMAGES

It's assumed baby boomers will be politically active like the seniors before them. Not necessarily, say some demographers.

Not surprisingly, the report set off a spirited debate about how the state should fund itself over the next decade. But it also set off a quieter, equally interesting exchange about an even touchier subject: how to avoid an intergenerational war over tight budgetary resources. It didn't take much imagination to see a pitched battle shaping up between older residents and the state's schoolchildren. "We hear politicians talk a lot about how the most important thing government can be doing is to help educate kids," says Rich Mauro, senior policy analyst at the Denver Regional Council of Governments (DRCOG). That's still true, he says, but policymakers and elected officials are more aware than ever of the challenges ahead for older populations and what they will mean for public policy and budgets.

This new political awareness is being driven partly by simple demographics. According to data compiled by demographer William Frey of the Brookings Institution, Colorado is one of a group of states that is seeing rapid growth at both ends of the age spectrum. Between 2000 and 2010, Nevada and Utah led the nation in the growth of their under-15 populations, at 27 and 25 percent, respectively. Colorado was seventh, at 12 percent growth. The national average was 1.6 percent. Meanwhile, the soon-to-be-senior population of those ages 55 to 64—in other words, the leading half of the baby boom—grew 76 percent in Colorado, faster than in any other state except Alaska. Other Western states saw numbers that were only slightly lower: 69 percent in Utah, 68 percent in Idaho, and 66 percent in Nevada and Washington.

It's not that "pre-seniors" are moving in unusual numbers to these states. Rather, they moved there in their 30s and 40s and are now aging in place, as are most people in the over-65 cohort. In fact, in every corner of the country, in fast-growing and slow-growing states alike, those older than 65 and those approaching it are coming to represent a larger share of the population simply by staying put. "The migration aspect of population change in the elderly is relatively small," says Frey. "The bigger issue is where soon-to-be-old people are ready to age in place—and that's everywhere."

This plain demographic fact has an obvious political result. More than half the nation's voting-age population is now over 45—the first time that's ever happened. As the immense bulge of the baby boom ages, politics in every state, county, city and town will reflect its influence. Yet what's most interesting about this is that no one really knows how.

Given how thoroughly scrutinized, analyzed, dissected and judged the baby boom has been since 3.4 million of its members were born in 1946—compared to the 2.8 million babies of 1945—one would think it would be easy to predict how they'll behave politically as they age. But it's never been an easy generation to pigeonhole. Its leading edge started coming of political age around the time of President John F. Kennedy's assassination, and its tail around Ronald Reagan's inauguration. In the 1960s and '70s, as the Pew Research Center

noted last year in a report profiling the politics of different generations, boomers as a whole wanted little to do with the Republican Party, but by the 1980s that changed significantly. To make things even more complicated, there is a political difference between the first half of the baby boom and the second. "Older boomers, who cast their first ballots in the Nixon elections of 1968 and 1972, have voted more Democratic than have younger boomers who came of age under Ford, Carter and Reagan," the report commented.

And it's not just that the coming wave of older Americans is all over the map in partisan terms. "Really, the senior vote is something of a myth," says Frederick Lynch, a professor of government at Claremont McKenna College and author of *One Nation Under AARP: The Fight Over Medicare, Social Security, And America's Future*. "It breaks apart by education, class, ethnicity and family structure. And among pre-seniors, you've got elite boomers who got good degrees, bought into globalization and were able to adjust to a changing economy, versus the white working class, which is mostly boomers who have been completely dislocated by cheap immigrant labor and their jobs sent overseas. In numbers, the senior and pre-senior bloc is a sleeping giant, but the question is will it awaken and mobilize?"

It is crucial, says demographer Neil Howe [see "Talkin' 'bout My Generation," page 26], not to assume that aging boomers will act like the generations before them. "People assume that age-bracketed behavior doesn't change," he says. "They remember the efficacy of the senior lobby back in its glory days—the 'greedy geezer' days—and project it onto the boomers' numbers and what they get is that the boomers will suck all the resources out of our system." But that assumes, he argues, that aging boomers will know what they want and go after it effectively. "What have they ever done in an organized fashion, collectively, on behalf of their own generation?" he asks. "Boomers are excellent at rhetorical wars over values, but I've never seen them effectively organize."

There is no shortage of potential flash points that could see state and local voters polarize along age-related lines. Taxation,

schools, long-term care, Medicaid, urban design, transportation—all carry the potential for conflict. Even ethnicity could be a sensitive topic. Pew's research suggests that boomers are generally less tolerant of the increasingly diverse, multi-ethnic character of the U.S. than the cohorts that follow them—though they are more accepting than their elders. Likewise, as controversy grows in states like California over pensions for public workers, it's hard not to notice that the Golden State boomers who are now retiring are majority white, while the younger taxpayers called on to support them are not.

But there is another possible scenario. Aging in place means that people are growing old in communities they're familiar with and that are familiar with them. Moreover, says Howe, "We know that boomers are more engaged with their families than their parents were, and they work cross-generationally with their families." The same may well be true of their larger communities. Nina Glasgow and David Brown, sociologists at Cornell University, have found that older adults who migrate to new rural communities for retirement often plunge into community life, starting libraries, rejuvenating YMCAs and raising funds for nonprofits and hospitals. A plethora of civic organizations from Habitat for Humanity to the Experience Corps, which uses volunteers older than 55 to tutor and mentor public school students, often in inner-city schools, have found a rich source of help among aging Americans of every class, race and ethnicity.

"Much more is made of the potential for intergenerational warfare than there is evidence for," says Laura Carstensen, a psychology professor who directs the Center on Longevity at Stanford University. "We can surely avoid it, if we provide roles for people to remain engaged not just with their own families, but with their communities."

That is precisely the thinking taking place in Colorado, says DRCOG's Mauro. Advocates both for seniors and for kids and education have been meeting regularly to talk about ways of avoiding conflict. "We want to make sure that we can be on the same page on these things," he says. "I go to meetings with senior advocates where they say, 'We need to be sure money won't be taken away from kids, because I've got grandkids and their education matters.'"

At the same time, advocates for older Coloradans have stepped up their argument for shifting the state's spending priorities toward in-home and community services—services that will allow seniors to avoid expensive hospitals and institutions, sidestep having to spend themselves into poverty in order to qualify for Medicaid, and remain in their communities. "We're trying to argue that putting money into these community and in-home services would provide savings for other areas of the budget, with the added benefit that you'd be helping people grow old where they want to be," Mauro says. **G**

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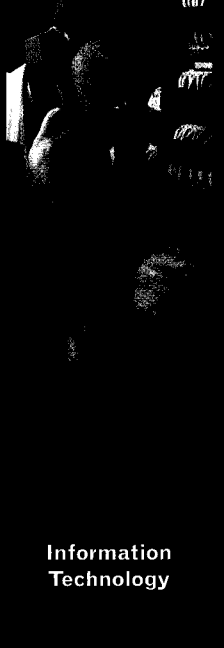
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The Aging Boom

The aging of America is under way and it's transforming our cities, counties and states. Consider these projections for 2030: The entire U.S. will look more like Scottsdale, Ariz., where today roughly one in five residents is 65 or older; ten states will have more Medicare-eligible seniors than school-age children; and even Utah, currently the youngest state in the nation, will experience a doubling of its elderly population.

The challenges and opportunities behind these trends are at the heart of a multi-issue series titled "Governing Generations," which we introduce in this issue on page 25. Additional coverage can be found at governing.com/generations.

Governing has already focused on the aging issue through a series of roundtable and conference events in partnership with

AARP. In June, we held just such an event in Michigan, where Bill Rustem, policy director to Gov. Rick Snyder, talked about efforts in Grand Rapids, Traverse City and Detroit to build livable communities that will attract and serve citizens across generations. As a result, these hard-hit cities are experiencing economic gains. Working with public and private entities, they have developed master plans to address quality of life, transit-oriented development, economic vitality and

zoning. Leaders in Traverse City, for example, developed a plan "for what they wanted to be when they grew up," and it's beginning to work. Their recommendation to other officials: Identify the major factors impacting their jurisdictions, determine what they want their communities to be, make a plan and build coalitions within and beyond government to implement it. Such a systematic approach is working in Michigan and could be a model for other states.

According to the International City/County Management Association, only half of our local governments are ready to handle the effects of aging, which makes it vital that public leaders adapt and develop a sustainable way to provide for this growing generation of citizens, who will need an array of specialized services. This special four-month series will look at aging as it relates to transportation, politics, health care, housing and more. For instance, we'll examine what government is doing to address its own aging workforce. Where and how will we cultivate the talent needed to lead government through the next 30 years?

Want to share how your government is preparing for an older workforce? Email me at ewaters@governing.com.



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Governing (ISSN 0894-3842) is published monthly by eRepublic Inc., with offices at 1100 Connecticut Ave. NW, Suite 1300, Washington, D.C. 20036 and at 100 Blue Ravine Road, Folsom, CA 95630. Telephone: 202-862-8802. Fax: 202-862-0032. Email: mailbox@governing.com. Periodical postage paid in Washington, D.C., and at additional mailing offices. Copyright 2012 eRepublic Inc. All rights reserved. Reproduction in whole or in part without written permission of the publisher is prohibited. Governing, Governing.com and City & State are registered trademarks of eRepublic Inc.; unauthorized use is strictly prohibited. U.S. subscription rates: Government employees—free; all others—\$19.95 for one year. Foreign subscriptions: \$74.95 in U.S. funds. Postmaster: Send address changes to Governing, 100 Blue Ravine Road, Folsom, CA, 95630. Subscribers: Enclose mailing label from past issue. Allow six weeks. Member: BPA International. Made in the U.S.A.

Where Does the City's Power Come From?

BY JAMES MONGÉ

The League of Minnesota Cities regularly gets questions about what cities are permitted to do. Can the city incorporate a nonprofit corporation? Can the city donate money to the local little league for baseball equipment? Can the city have an employee recognition dinner? Answering these questions requires that we identify a law that gives the city the power to

do what it seeks to accomplish.

Cities may only exercise their powers in accordance with the federal and state constitutions and state statutes. These laws grant cities authority to carry out their functions, but also limit what cities can do.

Understanding the source and extent of city authority is important because when a city acts beyond the scope of its authority, it risks legal liability and having its action declared invalid by a court.

U.S. and state constitutions

The U.S. Constitution outlines the relationship between the federal government and the states. It does not address local government. However, the Constitution's Bill of Rights does place significant limitations on city powers. For example, city officials and city employees may not take action that abridges an individual's freedom of speech or deprives them of due process and equal protection of the laws.

Since the U.S. Constitution is silent on the creation and organization of local governments, that power is reserved for the states. Under Article XII, section 3 of the Minnesota Constitution: "The Legislature may provide by law for the creation, organization, administration, consolidation, division, and dissolution of local government units."

The state Legislature has primacy over cities. Cities have no inherent powers. They possess only the powers that the state expressly grants them by statute, or that are implied as necessary to the exercise of powers expressly granted.

State statutes

State statutes prescribe a handful of options for organizing as a city in Minnesota. Cities may be organized as statutory cities (standard plan, Optional Plan A, or Optional Plan-B) or home rule charter cities. Cities are not empowered to organize any other way. How a city is organized dictates the powers it exercises.

State law permits cities to organize according to a city charter. The charter controls both the form of city government and its powers. Charter cities have wide discretion to provide for any form of government that is not inconsistent with the state constitution or statutes.

Charter cities may exercise all powers the state constitution permits a city to assume. A charter may also place limitations on the city's exercise of power. For example, the city charter may set the procedure for passing ordinances or provide for initiatives and referendums. A city charter is both a source of and limitation on the powers a city can exercise.

Most cities in Minnesota (746 of 853) do not have a city charter. Instead, they are organized pursuant to the statutory city code, which is found at Chapter 412 of the *Minnesota Statutes*. The statutory city code is the primary source of their authority. Some examples of the powers Chapter 412 specifically grants cities include the power to:

- Acquire and dispose of real and personal property.
- Make contracts necessary to carry out the powers granted to the city.
- Prosecute and defend legal actions.
- Open, maintain, and regulate the use of streets, sidewalks, sewers, parks, and other public grounds.
- Establish a fire department.
- Regulate the keeping of animals.
- Regulate nuisances.
- Require connection to city sewer and water.

Additional powers

State statutes located outside of the statutory city code grant all cities, including charter cities, additional powers. For example, *Minnesota Statutes*, Chapter 462 authorizes cities to engage in land use planning and zoning, and *Minnesota Statutes*, Chapter 429 authorizes cities to levy special assessments for local improvements. Cities must follow the procedures prescribed by statute to exercise these powers.

In addition to the powers the law specifically confers, cities may also exercise any power implied as necessary to exercise powers that have been expressly conferred. However, whether a power is implied by law is subject to interpretation. Therefore, best practice is to seek a legal opinion from the city attorney addressing the scope of the city's implied authority.

For more information on the scope of city authority, see the League's *Handbook for Minnesota Cities* at www.lmc.org/handbook. 

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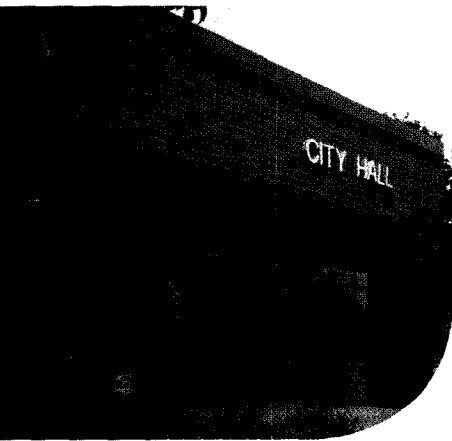


PHOTO BY MATT JOHNSON

Can the City Ban Unlicensed Vehicles?

CONSTITUTIONAL LAW

Nuisance ordinance

Johnson was charged with and found guilty of violating a nuisance ordinance prohibiting unlicensed motor vehicles in the city. Johnson appealed, claiming the ordinance was unconstitutional. Johnson argued that because the ordinance includes vehicles that are “not currently licensed” within its definition of proscribed nuisances, the ordinance effectively requires payment for vehicle registration, and thus, imposes a motor vehicle tax that the city has no authority to impose. Johnson also argued that such a tax cannot be imposed on vehicles that are not being operated on a public highway. The Minnesota Court of Appeals ruled in the city’s favor, holding that Johnson had not met his burden of demonstrating that the ordinance was unconstitutional. The Court of Appeals reasoned that just because the state does not require registration or taxation of certain vehicles that are withdrawn from use on public highways, it does not follow that a city has no constitutionally reasonable interest in regulating the presence of such vehicles within its boundaries. *State v. Johnson*, No. A12-1040 (Minn. Ct. App. 2013) (unpublished).



within its definition of proscribed nuisances, the ordinance effectively requires payment for vehicle registration, and thus, imposes a motor vehicle tax that the city has no author-

factors of the statute. Instead, the Supreme Court reasoned that fair market value principles might be used in a situation where the statutory factors produce a level of compensation below the fair market value of the property taken because the state and federal constitutions would prohibit a court from awarding the owner less than the full market value of his or her loss. The Supreme Court also noted that it would not consider whether and under what circumstances fair market value evidence might be appropriate under the statutory factor of “other appropriate factors,” noting that the city had stipulated that this factor should be considered zero. *Moorhead v. Red River Valley Cooperative Power Ass’n*, 830 N.W.2d 32 (Minn. 2013).

The Minnesota Supreme Court affirmed and held that the city’s valuation was inconsistent with the statute’s plain language by **failing to give meaningful consideration to the four statutory factors.**

CONSTITUTIONAL LAW

EMINENT DOMAIN

Municipal electric utility

The city annexed land and acquired the right to provide electric service to it by condemning a rural electric utility’s property. The condemnation was authorized by *Minnesota Statutes*, section 216B.47, which provides that damages must include: “the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities, and other appropriate factors.” The city attempted to use a fair market value analysis when addressing the statute’s factors, but the district court and the Minnesota Court of Appeals held that section 216B.47 prohibits consideration of fair market value evidence, even though courts have historically used such evidence to determine the constitutionally required just compensation for property acquired by eminent domain.

The Minnesota Supreme Court affirmed and held that the city’s valuation was inconsistent with the statute’s plain language by failing to give meaningful consideration to the four statutory factors. But the Supreme Court declined to adopt the lower courts’ reasoning, which found that fair market value analysis was not compatible with the four

Sign ordinance

DiMa Corporation owns a portable sign that it rents to customers for advertising. The city adopted an ordinance that, the city contends, prohibits DiMa’s customers from using the sign. DiMa sued, challenging the city’s interpretation of its ordinance and asserting a First Amendment right to rent the sign. DiMa also moved for a temporary injunction to prevent the city from enforcing the ordinance while the lawsuit was pending. The district court denied the motion. The Minnesota Court of Appeals reversed, concluding that the district court erred when it determined that DiMa would be unlikely to succeed on the merits of its claims and would not suffer irreparable harm if the ordinance was not enjoined. The Court of Appeals concluded that the balancing test for determining whether an injunction should be issued favored DiMa for the following reasons:

- It was likely that DiMa would succeed on the merits because it is entitled to continue displaying its sign under the ordinance’s nonconforming use provision.
- Irreparable harm is presumed if there is a First Amendment violation.
- The city would likely be immune from liability for damages based on DiMa’s lost profits from not being able to rent its sign.

DiMa Corp. v. City of Albert Lea, No. A12-1284 (Minn. Ct. App. 2013) (unpublished).

Community Engagement

Community engagement is important for all cities, but it's no easy task. Here are tips for a successful community engagement program that can bring robust involvement from all community groups, including the younger generations.

By David Rubedor

Cities value the input and participation of residents. The more engagement, the better because cities and residents alike benefit from broad and robust involvement. And reaching out to residents in their 20s and 30s is especially important since this group includes our next generation of leaders.

As the director of neighborhood and community relations in Minneapolis, I understand what a challenge it can be to engage residents. Certain groups are even harder to engage, and I believe that adults in their 20s and early 30s—often referred to as Millennials—are among the under-engaged. We'll explore some ways to engage them here, but first I want to discuss some general concepts about community engagement.

Minneapolis program

The City of Minneapolis has a long history of community engagement, and we've worked hard to reach out to all groups in our city, particularly those that may be under-engaged.

The city has 71 different neighborhood organizations. Although the city's neighborhoods are our primary partner in community engagement, we also reach out and engage residents where cultural norms, practices, or language are different from those in the general population. Minneapolis is large, but the principles of engagement transcend city size and can be applied to most situations.

Benefits of an engaged community

Building resident involvement into the city's work is a great way to build partnerships that help achieve mutual goals. When you have an engaged community, everyone benefits because:



David Rubedor will speak about community engagement during the session

"Assessing Your City's Approach to Democratic Governance"

at the

LMC 2012 Annual Conference

Learn more at www.lmc.org/2012annual

- A greater diversity of views is expressed.
- Stronger and more sustainable outcomes are achieved.
- Participants all learn from their involvement.
- Special needs are identified and addressed.
- Relationships throughout the community are established or improved.
- Mutual respect is created among stakeholders.
- Participants develop leadership skills.
- Equitable development and revitalization takes place throughout the community.

One important aspect of a robust community engagement system is its ability to bring in and develop new leadership. A well-designed community engagement process will result in a high level of participation, and encourage community members to step forward as leaders.

Once engaged, these emerging leaders often show an appetite for additional leadership roles, which is a huge asset for your community. For example, in Minneapolis many of our city councilmembers first got involved with the city through our neighborhood organizations.

Core principles of engagement

A strong set of core principles is key to a successful and well-managed community engagement effort. Without it, engagement efforts could be confusing, leaving participants and city officials frustrated with the process and the results.

In 2007, the Minneapolis City Council adopted the Core Principles of Community Engagement, a modified version of the Public Participation Spectrum by the International Association for Public Participation (see sidebar on page 9). These principles have been incorporated into the work of the city's Neighborhood and Community Relations Department and proven highly successful.

When applied to any engagement effort, the principles provide the policy framework to define expectations and communication protocols, and validate the participation of the residents.

Applying the core principles

Applying the core principles is paramount to success. Here's an example of one way we've applied them in Minneapolis.

In 2010, the City Council wanted to develop a new neighborhood funding program to support ongoing neighborhood engagement work. The city's Neighborhood and Community Engagement Commission (NCEC) was charged with developing the new Community Participation Program to provide the funding.

NCEC commissioners and city staff met with more than 60 of the city's neighborhood organizations to gather input prior to developing the draft guidelines for the program. This approach—engaging the users of the program before developing guidelines—

top of the hierarchy, younger were at the bottom. As our society has changed, so have the organizational structures and assumptions at work. Now, younger individuals with the right skills can be found at all levels of an organization. Individuals from all generations now work side by side.

Tips for multigenerational management

Experts agree that the following relatively easy-to-implement actions can pay great dividends in the successful management of a multigenerational workforce:

- **Initiate conversations about generational similarities and differences.** When these thoughts are out on the table, the issues are less personal. Talking about them becomes easier—sometimes even fun.
- **Ask workers about their needs and preferences.** Individuals in each generation may not always reflect the typical perspectives of that generation. The only way to find this out is to have a conversation about individual preferences.
- **Offer options.** To work successfully with many generations requires choices that can meet diverse needs. This is especially true in the area of flexible work options and benefits. Workers appreciate flexible options that help them achieve better work/life balance.

■ **Personalize your style.** Be flexible. As you learn about the needs and preferences of your multigenerational team, you can find unique ways to address them, including the ones that are consistent across all generations and others that are unique.

■ **Build the work plan around the strengths within your team members.** Each person/generation representative has some unique strength that can enhance the work of the team, and people appreciate the opportunity to use those strengths and deepen their experience using their best traits.

■ **Encourage sharing of different perspectives on issues or problems.** A good team learns from listening to the perspectives of its members, even if they are totally opposite. In many cases, this tension between outlooks can help break through to even better solutions to problems.

It is important to remember that even though workers from different generations have differences in how they work, they also have much in common. By understanding and addressing generational differences, everyone is better able to focus on the shared values of workers across all generations, and achieve the important goals of the city where they work.

At the League of Minnesota Cities Annual Conference in June, we will talk

more about some specific examples of how cities and other local governments are addressing these issues in innovative and practical ways.

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MYTH - BUSTERS

As the number of aging workers in the workplace increases, there continue to be a number of myths about aging workers (and also a few about younger workers). The following are some beliefs about older and other generations, and whether they are true:

Older workers are slow and less productive. Surveys of employers show that 97 percent of employers think older workers are thorough and reliable.

Older workers are sick more often. Andrus Gerontology Center found that older workers (45+) had a lower rate of sick leave use than workers between ages 17 and 44.

Older workers have more accidents than younger workers. Some of this data differs by occupation. In Minnesota the incidence of injuries to older workers is slightly higher than for younger workers, and older workers have different kinds of accidents. If older workers are injured, it is more likely to be fatal than for younger workers.

Older workers cost more to pay and to insure. Yes and no. While they may be more costly, many employers feel that the cost is offset by their quality, performance, and reliability.

Generation X workers aren't willing to work hard. The truth is they are willing to work hard, but believe it is unfair to expect a 70-hour week for 40 hours of pay. They want a life beyond work.

Millennials want opportunities handed to them and have a sense of entitlement. A major survey of employers in the U.S. found that Millennials have a strong entrepreneurial spirit that makes them self-reliant.

These types of stereotypes and outdated notions are alive and well, but need to be addressed by employers in order to create a productive and healthy inter-generational workplace.

Figure 1: Characteristics of Four Generations in the Workplace

Factor	World War II 1922-1945	Baby Boomers 1946-1964	Generation X 1965-1980	Millennials 1981-2000
Outlook	Practical	Optimistic	Skeptical	Hopeful
Work Ethic	Dedicated	Driven	Balanced	Ambitious
View of Authority	Respectful	Love/hate	Unimpressed	Relaxed, polite
Leadership by . . .	Hierarchy	Consensus	Competence	Achievement, pulling together
Relationships	Self-sacrifice	Personal gratification	Reluctance to commit	Loyal, inclusive
Perspective	Civic-minded	Team-oriented	Self-reliant	Civic-minded
Turn-offs	Vulgarity	Political incorrectness	Clichés, hype	Cynicism, condescension
Work and Family Life	Separate worlds	No balance, live to work	Balance	Balance
Feedback and Rewards	No news is good news	Don't appreciate feedback; prefer rewards of money, title recognition	Sorry to interrupt, but how am I doing?	Whenever I want it, at push of button

Source: Claire Raines Associates (www.generationsatwork.com)