



## MAYOR AND COUNCIL COMMUNICATION

DATE: 8/16/2016

**REGULAR**

ITEM #: 19

**AGENDA ITEM:** Temporary Health Care Dwellings  
**SUBMITTED BY:** Emily Becker, City Planner  
**THROUGH:** Kristina Handt, City Administrator  
**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

On May 12, 2016, Governor Dayton signed in to law the creation and regulations of temporary family health care dwellings, codified as Minn. Stat. 462.3593, which permit and regulate temporary family health care dwellings. Community desire for transitional housing for those with mental and physical disabilities, and the increased need for short-term care for aging family members served as the catalyst behind this initiative. The resulting law allows for a family to more easily care for these individuals by using a temporary dwelling on the property. The law goes into effect on September 1, 2016 unless cities adopt an ordinance opting out.

Currently, temporary health care dwellings specifically are not listed as conditional or permitted uses in the Zoning Code and therefore are considered prohibited except under certain provisions set forth in the Design and Performance Standards Section of the Zoning Code which allows, in some cases and with certain standards, temporary farm dwellings, temporary construction offices, and recreational vehicles. By not adopting the ordinance opting-out, temporary health care dwellings meeting the Statute's standards would now be allowed with a permit.

On July 25, 2016, the Planning Commission held a public hearing, considered, and recommended approval of the adoption of an ordinance opting-out of the requirements of Minnesota Statutes, Section 462.3593.

### **ISSUE BEFORE COUNCIL:**

The Council should consider if an ordinance opting-out of the requirements of Minnesota Statutes, Section 462.3593, which permits and regulates temporary family health care dwellings, should be adopted.

### **PROPOSAL DETAILS/ANALYSIS:**

Minnesota Statute, Section 462.3593 has the following key components:

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

- Requires that the permit be for a property where the caregiver or relative resides.
- Allows modular and manufactured housing (instead of just recreational vehicles) to use this permit process as long as the unit meets all of the listed criteria.
- Lists the criteria for the structure and the information required in the permit application.
- Addresses sewer safety issues with required backflow valves and advance verification of septic service contracts.
- Requires the inclusion of site maps showing where the unit will be placed and notification of adjacent neighbors prior to application.
- Requires applications to specify the individual authorized to live in the unit.
- Applies the permit approval process found in Minnesota Statutes, section 15.99, but allows the local government unit only 15 days to make a decision on granting the permit (no extension). It waives the public hearing requirement and allows the clock to be restarted if an application is deemed incomplete, as long as the applicant is notified of how the application is incomplete within five days. A 30-day decision is allowed if the regular council meeting occurs only once a month.
- Requires unit placement to meet existing stormwater, shoreland, setback, and easement requirements.
- A temporary family health care dwelling that meets the requirements of Sections 2 and 3 of the Statute cannot be prohibited by local ordinances that regulate accessory uses or recreational vehicle parking or storage.
- Sets a default permit fee level that may be replaced by a local ordinance.
- Allows cities to pass an ordinance opting out of using this new permitting system.

The City does not currently allow temporary health care dwellings, except under certain circumstances and standards, so this Section of Minnesota Statutes would allow for, under certain standards, a use that is currently prohibited by Zoning Code. Additionally, the Building Official has the following concerns about allowing temporary health care dwellings: structure anchoring; septic system issues; water system access; inadequacy of insulation requirements for colder weather; municipal sewer connection issues; Metropolitan Council SAC/WAC charges determination difficulties; and backflow check access.

#### **FISCAL IMPACT:**

Adopting an ordinance opting-out of Minnesota Statute, Section 462.3593 would reduce potential issues which could be caused by allowing temporary dwellings and Staff time spent resolving these potential issues.

#### **PLANNING COMMISSION/PUBLIC HEARING:**

The Planning Commission recommends adopting an ordinance that has the City of Lake Elmo opting out of the requirements of Sections 2 and 3 of the Statute. The Commission did have some concern that there is no current mechanism to provide temporary housing for those with mental and physical disabilities and aging family members.

#### **OPTIONS:**

The Council may:

- Approve the ordinance as proposed.
- Deny the ordinance.

**RECOMMENDATION:**

Staff respectfully requests that the Council approve, as recommended by the Planning Commission, the proposed ordinance opting-out of Minnesota Statutes, Section 462.3593.

*“Move to approve Ord. 08-151 opting-out of Minnesota Statutes, Section 462.3593.”*

**ATTACHMENTS:**

- Ord. 08-151
- Planning Commission meeting minutes, 7/25/16
- History of Session Law Chapter 111 (codified as Minnesota Statutes, Section 462.3593)
- Chapter 111 (codified as Minnesota Statutes, Section 462.3593)
- Summary of Responses from Other Cities Regarding Temporary Health Care Dwellings